United Nations A/67/136

General Assembly

Distr.: General
9 July 2012

Original: English

Sixty-seventh session
Item 136 of the preliminary list*
Joint Inspection Unit

Staff-management relations within the United Nations

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Joint Inspection Unit entitled, "Staff-management relations within the United Nations (JIU/REP/2011/10).

* A/67/50.

12-41511 (E) 190712

Please recycle

Staff-management relations within the United Nations

Prepared by

Gérard Biraud

Joint Inspection Unit

Geneva 2011

Executive Summary

Staff-management relations within the United Nations

JIU/REP/2011/10

The report on staff-management relations (SMR) within the United Nations was prepared following suggestions made in this regard by the Under-Secretary-General (USG) for Management, the Human Resources (HR) Network of the United Nations Chief Executives Board for Coordination (CEB) and a number of Staff Representatives (SRs). Good and effective interaction between the management of the organizations of the United Nations system and their staff is critical for the delivery of high-performance services. The objective of the report is to identify and promote the conditions that would further SMR at all levels: the United Nations Secretariat, its duty stations, and the separately administered organs, programmes, Tribunals, peace operations and political missions, on the basis of the principles and texts agreed to by the Member States. The scope of the report is limited to the processes and mechanisms of SMR, rather than on substantive Human Resources (HR) issues except for illustrative purposes.

It is expected that the implementation of the report's recommendations by the Executive Heads complemented by the consideration by the elected leadership of the Staff Representative Bodies (SRBs) of some suggestions will help to improve the work of various established Joint Bodies (JBs) and make SMR more effective for the overall benefit of the entities concerned and meet the General Assembly's clear wish, when addressing Human Resources Management (HRM) issues (General Assembly resolution 63/250), to receive proposals for the review of the staff-management mechanisms.

Main findings and conclusions

The research revealed that while the principles of SMR in the United Nations are established from a legal and political point of view — by various texts including numerous General Assembly resolutions binding or committing all stakeholders — in practice, the implementation of these principles is far from being uniformly satisfactory in various entities and at all levels of staff-management interaction. The Inspector had to reorder the initial structure of the present report and delve first and foremost with the "crisis" in SMR when several SRBs representing thousands of staff members globally either refused to participate or threatened to boycott the June 2011 session of the most important Joint Staff-Management (SM) Body in the United Nations — the Staff-Management Coordination Committee (SMCC).

SMCC XXXII (June 2011) eventually took place following a clear commitment by the Secretary-General to promulgate — by September 2011 — the new Terms of Reference (ToR) for the Committee (drafted three years earlier). The new ToR was subsequently issued on 8 September 2011 (ST/SGB/2011/6) replacing the SMCC with the Staff Management Committee (SMC). Nonetheless, despite some important positive steps, SMCC XXXII did not resolve other major pending issues that served as a significant source of mistrust and frustration for SRs, including some policy decisions on which — allegedly — neither prior adequate consultations nor negotiations were undertaken with SRs. Such practices would have clearly contradicted Staff Regulation 8.1, which states that:

The Secretary-General shall establish and maintain continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies.

The contested decisions touched upon "*issues within the authority of the Secretary-General*" including contractual arrangements, mobility, safety and security, reduction of allotments, and even a new version of the Staff Rules. Effective SMR requires clarity in the delineation of authority on the management side. It also requires from both sides, the willingness to participate in the discussions in good faith and a proper understanding of the issues at stake, the latter point being closely tied to necessary training on SMR and HR issues.

In the present report, the Inspector proposes a major reform of the Staff Management Committee (SMC) building upon the new ToR of the SMC and going further to transform it from a five-day event into a five-month process as detailed in Chapter 8. The related changes may represent a difficult deviation from customary thinking and business as usual procedures, but may be necessary for safeguarding and improving SMR. The report highlights some major points in this regard:

(a) The scope of issues on which the Secretary-General and senior management should engage with SRs is clearly defined and limited by Staff Regulations 8.1(a) and 8.2. Subsequently, providing for such participation would not amount to the co-management of the organization;

(b) The Secretary-General, as the Chief administrative officer of the United Nations, has the final say to accept or reject any proposed agreement on issues on which he is designated as the ultimate authority. On other issues that fall within the realm of authority of the Member States (including system-wide issues and ones with budgetary implications), the Committee may strive to agree on a common position which the Secretary-General would then be obligated to defend before the General Assembly. If, as suggested, the Secretary-General follows negotiations in the SMC as they occur, then he will not be lacking for time to fully consider any proposed agreement in all its aspects before agreeing and signing on to it;

(c) Credible and thoughtful agreements that take into account all possible aspects of an issue cannot and should not be deliberated and determined overnight; they may require different time frames, from days to months. In order to ensure that there are no unnecessary shocks or surprises for either side, the three steps necessary to attaining agreements in good-faith — namely, mutual information, mutual consultation and, most importantly, negotiation — must be respected;

(d) The appropriate framework for negotiations will vary according to the nature and scope of the issue under consideration, from informal discussions between line managers and the staff of their units for issues specific to a department or unit (in accordance with the principle of subsidiarity), to Joint Advisory Committees (JACs) and Joint Negotiating Committees (JNCs) for duty-station specific issues and to the SMC for issues with Secretariat-wide significance. In this regard, Chapters III and VI make the case that if the United Nations is to be described as the employer and is represented by a mandated management when discussing and formalizing agreements, it can then be concluded that all features characterizing collective bargaining do presently exist in most formal SMR negotiating processes in the organization, in particular within the SMC and the JNCs;

(e) Decisions reached in the aforementioned forms, with due representation of both staff and management, should be accompanied by necessary joint monitoring and implementation, with a defined time-frame for action. Given the means available to it, management is particularly accountable for this task, beginning with the Chief administrative officer of the United Nations and the Executive Head (EH) of every United Nations entity.

Recommendations, guidelines and proposals

The Inspector has made six recommendations in the present report: one to the General Assembly, one to the Secretary-General exclusively and four to the Secretary-General and the Executive Heads of the separately administered organs and programmes. The Inspector also proposed, on a purely advisory basis, five guidelines for the consideration of and possible implementation by the Staff Representative Bodies (SRBs) as appropriate. Unlike the "recommendations", these guidelines will not be the object of any JIU follow-up on their acceptance and implementation.

In addition, the staff and management representatives are invited as members of the SMC to consider, discuss and improve — at the first session of the SMC — the institutional changes proposed in chapter VIII to make this Committee, hence the SMR, more effective.

Recommendation for consideration by legislative organs

Recommendation 5

The General Assembly should request the Secretary-General to present to it for its approval, an appropriate staff regulation confirming the recognition of the right of the United Nations staff to collective bargaining as outlined in the annex to its resolution 128 (II). The Secretary-General and the Executive Heads of the separately administered organs and programmes should apply to the staff of their respective entities the standards and principles emerging from the relevant ILO instruments, particularly the Declaration on Fundamental Principles and Rights at Work (1998).

Contents

Chapter		*Paragraphs*	*Page*
	Executive Summary		4
	Abbreviations		10
I.	Introduction	1–9	14
	A. Objectives and scope	1–4	14
	B. Methodology	5–9	15
II.	Staff-management relations in chronic crisis	10–36	16
	A. Past and current state of staff-management relations	10–18	16
	B. Chronic weaknesses in the Staff-Management Coordination Committee (SMCC)	19–28	19
	B.1 Late submission of documentation	20–21	19
	B.2. Uneven implementation of SMCC agreements	22–27	19
	B.3 Conflicting perceptions on major decisions allegedly taken without staff participation	28	21
	C. Open crisis in 2011	29–30	23
	D. SMCC XXXII apparently solving the crisis	31–36	25
III.	The United Nations Secretariat Staff Management (Coordination) Committee (SMCC/SMC)	37–68	26
	A. Terms of reference and authority	38–41	27
	B. Composition and relations with local joint committees	42–44	28
	C. Positive elements of the SMCC	45–51	29
	C.1 The best practices of Working Groups (WGs)	45	29
	C.2 Initiatives to further the monitoring of the implementation of agreements	46–48	29
	C.3 Overall efforts towards agreed solutions	49–51	30
	D. Challenges that need to be addressed for a better functioning Committee	52–63	31
	D.1 Reviewing the membership structure	52	31
	D.2 Resolving uncertainties in delegated authority	53–56	32
	D.3 Furthering the interest and understanding of Member States on developments in the Committee	57–61	33
	D.4 Furthering professionalism in the SM(C)C	62–63	34
	E. Consultation or negotiation?	64–68	35
IV.	Staff representative bodies (SRBs) and SMR at the local level	69–100	37
	A. What purposes do staff representative bodies (SRBs) serve?	70	37

	B.	How is the United Nations staff represented and organized?	71–87	37
		B.1 Respective interests of different categories of staff	73–75	38
		B.2 Diverse organizational formulas	76–78	39
		B.3 Internal structure and procedures of SRBs	79–82	40
		B.4 Democratic participation in SRB elections to a Council	83–87	41
	C.	Perceptions on staff representational role in SMR	88–90	43
		C.1 Relationship between staff-at-large and staff representatives	89–90	45
	D.	Perceptions on the role of management in SMR	91–93	45
	E.	Protection of staff representatives	94–95	46
	F.	Communication within and among SRBs	96–98	47
	G.	Communication by management	99–100	48
V.	Local staff-management relations: practices and means		101–117	48
	A.	Quality of the local SMR	101–102	48
	B.	Different types of joint bodies	103–106	49
	C.	Relations between management and joint bodies	107–109	50
	D.	Facilities and time release for staff representation	110–114	51
	E.	Staff and management training in SMR	115–117	52
VI.	Basic principles and texts on SMR		118–131	53
	A.	Independence of international civil servants	118–119	53
	B.	Rule of law	120–121	54
	C.	Freedom of association and staff representation	122–123	55
	D.	Human rights	124	55
	E.	ILO Conventions and Declarations: collective bargaining	125–131	55
VII.	Accountability for all		132–152	58
	A.	Responsibility and accountability of all stakeholders	132–135	58
	B.	Responsibility and accountability of staff representatives	136–140	60
	C.	Responsibility and accountability of managers	141–143	63
	D.	SMR and the delegation of authority (DA)	144–147	64
	E.	Responsibility and accountability of Member States in SMR	148–152	65
		E.1 Communication	148	65
		E.2 Member States' perspectives on and interest in SMR	149–150	65
		E.3 Members States' positions on measures to improve SMR	151–152	66

VIII.	Towards a new Staff-Management Committee	153–161	66
	A. A new SM(C)C?	153–154	66
	B. Making the Committee secretariat more effective and independent	155–158	67
	C. Clarification on to whom each text will be applicable and who should discuss it	159	67
	D. Giving time and space to analysis and consultations	160–161	68
IX.	Conclusions	162-165	70
Annexes			
I.	Regulations and rules on staff relations (ST/SGB/2011/1)		72
II.	Table of the perceived quality of SMR through the SMCC reports		74
III.	Staff-management issues in SMCC sessions		76
IV.	Overview of action to be taken by participating organizations on the recommendations of the Joint Inspection Unit		77

Abbreviations and acronyms

ACABQ	Advisory Committee on Administrative and Budgetary Questions
ACC	Administrative Committee on Coordination (now CEB)
AI	Administrative Instructions
AoJ	Administration of Justice at the United Nations
ASG	Assistant Secretary-General
ASU	Area Staff Union (UNRWA)
BoA	Board of Auditors
CCISUA	Coordinating Committee for International Staff Unions and Associations of the United Nations System
CEB	United Nations System Chief Executives Board for Coordination (formerly ACC)
CMT	Country Management Team
DA	Delegation of Authority
DFS	Department of Field Support
DM	Department of Management (UNHQ)
DMT	Divisional Management Teams
DPA	Department of Political Affairs
DPKO	Department of Peacekeeping Operations
DSA	Daily Subsistence Allowance
DSG	Deputy Secretary-General
EC	European Commission
EH	Executive Head
ERP	Enterprise Resource Planning
EU	European Union
FICSA	Federation of International Civil Servants' Associations
FJNC	Field Joint Negotiation Committee
FSO	Field Service Officers
FSU	Field Staff Union
FUNSA	Federation of United Nations Staff Associations
GFTU	General Federation of Trade Unions
GS	General Service
GSA	Global Staff Association (UNICEF)
GLT	Global Leadership Teams

HLCM	High-Level Committee on Management (CEB)
HQ	Headquarters
HR	Human Resources
HRM	Human Resources Management
ICSC	International Civil Service Commission
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
ILO	International Labour Organization
ILOAT	International Labour Organization Administrative Tribunal
JAC	Joint Advisory Committee
JCC	Joint Consultative Committee
JIU	Joint Inspection Unit
JNC	Joint Negotiation Committee
OAH	Offices of the United Nations Secretariat away from Headquarters
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the United Nations High Commissioner for Human Rights
OHRM	Office of Human Resources Management (UNHQ)
OIOS	Office of Internal Oversight Services
OLA	Office of Legal Affairs (UNHQ)
OSLA	Office of Staff Legal Assistance
SA	Staff association
SC	Staff Council
SCC	Staff Coordinating Council
SG	Secretary-General
SM	Staff-Management
SMC	Staff-Management Committee
SMCC	Staff-Management Coordination Committee
SMR	Staff-Management Relations
SR	Staff Representative
SRB	Staff Representative Body
ST	Secretariat of the United Nations Organization
ST/AI	Secretary-General's *Administrative Instruction*
ST/IC	Secretary-General's Information Circular

ST/SGB	Secretary-General's Bulletin
SU	Staff Union
ToR	Terms of Reference
UDHR	Universal Declaration of Human Rights
UNAT	United Nations Administrative Tribunal
UNCTAD	United Nations Conference on Trade and Development
UNCT	United Nations Country Teams
UNDOF	United Nations Disengagement Observer Force
UNDP	United Nations Development Programme
UNDT	United Nations Dispute Tribunal
UNECA	United Nations Economic Commission for Africa
UNECE	United Nations Economic Commission for Europe
UNECLAC	United Nations Economic Commission for Latin America and the Caribbean
UNEP	United Nations Environment Programme
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNESCWA	United Nations Economic and Social Commission for Western Asia
UNFPA	United Nations Population Fund
UNFSU	United Nations Field Staff Union
UNGA	United Nations General Assembly
UN-Habitat	United Nations Human Settlements Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNHQ	United Nations Headquarters (New York)
UNICEF	United Nations Children's Fund
UNIFIL	United Nations Interim Force in Lebanon
UNISERV	United Nations International Civil Servants Federation
UNLB	United Nations Logistics Base
UNODC	United Nations Office on Drugs and Crime
UNOG	United Nations Office at Geneva
UNON	United Nations Office at Nairobi
UNOPS	United Nations Office for Project Services
UNOV	United Nations Office at Vienna

UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
UNSU	United Nations Staff Union (New York)
UNTSO	United Nations Truce Supervision Organization
UNU	United Nations University
USG	Under-Secretary-General
WG	Working Group

I. Introduction

A. Objectives and scope

1. As part of its programme of work for 2009, the Joint Inspection Unit (JIU) undertook in November of that year a review of Staff Management Relations (SMR) in the United Nations. The review — as initially announced in A/63/34 (paras. 141-5) — aimed at assessing SMR in the whole United Nations System and was included in the programme of the JIU following suggestions made by the Under-Secretary-General (USG) for Management, the Human Resources (HR) Network of the United Nations Chief Executives Board for Coordination (CEB), and a number of Staff Representatives (SRs). Due to the unexpected diversity and fragmentation of SMR within the United Nations, the review had to be divided into two reports with the present one focusing on the United Nations Group[1] and a forthcoming one (included in the JIU's Programme of Work for 2011) that will cover the United Nations' specialized agencies and on the ways in which Staff and Management Representatives are related and interacting at the level of the U.N. system.

2. The starting point is the premise that good and effective interaction between the management of the organizations of the United Nations system and their staff, who are considered to be their most precious asset, is critical for the delivery of high-performance services. From this perspective, nearly 100 hours of interviews (conducted in symmetry with SRs and MRs) convinced the Inspector that the quality of SMR is far from satisfactory (with the exception of some cases of excellent SMR, as in UNICEF) — a notion confirmed by other JIU Inspectors working on other topics in contact with SRs and MRs.

3. **The objective of both projects is to identify and promote the conditions that would further SMR at all levels** — local, United Nations Secretariat, Group and system — on the basis of the principles and texts agreed to by the Member States. It is expected that JIU recommendations to its traditional addressees (Governing bodies or Executive Heads) complemented by guidance to the elected leadership of the Staff Representative Bodies (SRBs) will improve the work of various established joint bodies and remove obstacles to making SMR more effective for the overall benefit of the entities concerned. In addressing such a topic, **this report focuses on the processes and mechanisms of SMR, rather than on substantive Human Resources (HR) issues, mentioned only** for illustrative purposes.

4. While Member States and the staff-at-large may not be involved as directly as either the staff representatives (SRs) or the HR Management on SMR issues, **as stakeholders, they have expressed a common desire to see greater transparency**

[1] The "U.N. Group" includes all entities whose management and staff are presently represented as members or associate members of the Staff Management (Coordination) Committee (SM(C)C). It includes the UN Secretariat Headquarters, three UN Offices Away from Headquarters (OAH) in Geneva (UNOG, OCHA Geneva, OHCHR, UNCTAD, UNECE, UNHCR), Nairobi (UNON including UNEP and UN-Habitat) and Vienna (UNODC, UNOV), four regional Economic Commissions (UNECA-Addis Ababa, UNESCAP-Bangkok, UNESCWA-Beirut, UNECLAC-Santiago), Department of Field Support (DFS), DPKO and DPA (who represent approximately forty plus Peace Keeping Operations and Special Political Missions), United Nations Funds and Programmes (UNDP, UNFPA, UNICEF, UNOPS, UNRWA), United Nations University (UNU) and two United Nations Criminal Tribunals (ICTR — Arusha and Kigali, ICTY -The Hague). UNRWA is not represented in the Committee.

and better dissemination of information regarding the topic, given a common perception of multiple SMR frameworks and ill-defined accountability boundaries. Rather than placing itself in the delicate position of concurrently serving as a judge and concerned party, the United Nations Secretariat suggested this topic to be addressed by the JIU, which is best placed to address it as the "only independent external oversight body of the United Nations System." It is expected that the analysis and recommendations contained in the two successive volumes will meet the General Assembly's clear wish to receive proposals for the review of the staff-management mechanisms in addressing Human Resources Management (HRM) issues (General Assembly resolution 63/250).

B. Methodology

5. Given that the present report addresses situations where actors on the staff and management sides each defend distinct interests, it highlights both points of agreement and divergences and acknowledges the impact of personalities on SMR. It is based primarily on perspectives from each side in an attempt to capture the nature of their relations as neutrally and objectively as possible. Thus, a symmetrical approach was utilized and the views of both staff representatives (SRs) and management representatives (MRs) in all duty stations considered were captured via parallel questionnaires and interviews, in full impartiality and with guarantees of confidentiality.

6. In accordance with the internal standards and guidelines of the JIU and its internal working procedures, the methodology followed in preparing this report included a preliminary desk review, 66 interviews including 18 through videoconferences and their in-depth analysis. 33 detailed questionnaires were sent to MRs and SRBs of the United Nations Group, with a response rate of 100 per cent from management and 77 per cent from SRBs. The Inspector conducted interviews with SRs and MRs, with the former President and the Vice-President of the Staff Management Coordination Committee (SMCC) in Vienna, and exchanged views with the current President of SMCC. Interviews were also held with the representatives of 16 MS in New York, and some specialists on labour relations in their individual or institutional capacity.

7. As part of the review, in addition to contacts in Geneva, the Inspector visited New York (United Nations Secretariat,[2] UNDP, UNFPA, UNICEF, ICSC, representatives of 16 MS), Beirut (ESCWA) and Naqoura (UNIFIL), Vienna (UNODC/UNOV), The Hague (ICTY) and Brussels (European Commission). Positive responses were received for all videoconference (VC) requests. In accordance with article 11.2 of the JIU statute, this report has been finalized after consultation among the Inspectors in order to test its conclusions and recommendations against the collective wisdom of the Unit.

8. The Inspector had to inquire and reflect, without excluding any stakeholder, on the main aspects which on each side may influence the quality of SMR, taking into account all perceptions found. It is well known that the JIU Inspectors have statutorily[3] a purely advisory role and neither a power of decision nor a right "to interfere in the operations of the services they inspect" but they "may propose reforms or make recommendations". The present report recommends that the General Assembly request the Secretary General to present to it for its approval a Staff Regulation explicitly recognizing the right to collective

[2] Including the Office of Legal Affairs (OLA), the Departments of Field Support (DFS) and the Department of Management (DM), particularly the Office of Human Resources Management (OHRM).

[3] Art. 5.5 of the Statute of the JIU, (res. 31/192, annex) downloadable from www.unjiu.org.

bargaining in the United Nations. As regards the SRBs, in order to clearly respect their freedom of association, the Inspector is only offering "guidelines" or even broad suggestions presented in the text itself, that each SRB can discuss and make a determination on whether to use or not. No guideline will be tracked in the JIU follow-up system. It is obvious that, by virtue of the freedom of association, each organization's staff members were historically free to conceive and establish, and are still free to criticize, reform and democratically improve their representative bodies and that they are the only ones in a position to do so. Neither any Manager nor a third party, be it a Member State or the General Assembly can decide for them in this area. To facilitate the handling of the report, the implementation of its recommendations and monitoring thereof, annex IV contains a table indicating whether the report is submitted for action or for information to the EHs of the Organization and entities concerned.

9. The Inspector wishes to express his deep appreciation to all those who assisted him in the preparation of this report, and particularly to those representatives of the Member States, management and staff who participated in the interviews, sent comments and willingly shared their knowledge and expertise in a climate of trust.

II. Staff-management relations in chronic crisis

A. Past and current state of staff-management relations

10. The earliest text on SMR (1920), Article 9(1) of Chapter IV in the ILO Staff regulations[4] was quite positive: the Staff Committee and the Joint Committee were vested with the powers to "*facilitate relations between the Director and the staff as a whole, and place these relations on a more regular basis*". The same spirit was illustrated by the purposes enumerated in the Draft Statute of the Staff Committee (SC) of the United Nations[5]. In its 1949 Report[6] the latter defined its role as *"a formula which will work: a Staff Committee which would reflect the views and opinions of its constituents, a Committee which would be neither beholden to the Administration nor opposed to it a priori, a Committee which neither seeks to provoke crisis nor tries by vague words to quiet legitimate discontent, a Committee which cooperates with those members of the Association whose role it is to give administrative direction to their colleagues"*. Such a formula continues to be relevant.

11. Following a positive and intense start, characterized by mutual trust in the 1940s,[7] SMR in the United Nations has experienced ups and down (as illustrated in annex II) for the last 30 years. Crisis in SMR is not a new phenomenon. In addition to a number of General Assembly resolutions showing that a range of serious concerns of the staff members were shared by Member States,[8] various JIU reports show "deterioration" and "crisis" of SMR in the past. This was due to a variety of reasons mostly related to new HR policies — less for their content than for the abrupt way they were introduced. This is an area where the MS also have certain responsibilities, in addition to those of the Secretary-General.

---

[4] See Djokitch Alexandre, *The Staff Union of International Labour Office — Its origins and the commencement of its activity*, Geneva: ILO, 1973.

[5] See Permanent Staff Council (PSC) Circular no. 15, 13 January 1947, p. 2.

[6] See Annual Report of the Staff Committee, 27 April 1949, SCC/54, p. 7.

[7] See *Report of the Permanent Staff Committee to the Staff of the United Nations Secretariat*, PSC/13, 13 December 1946.

[8] See for instance res. 47/226, which reaffirmed the need for the Secretary General to use to the fullest extent the staff-management consultative mechanism set out by staff rule 108.2.

12. In the 1980s, there was a crisis of confidence of sorts, resulting in the ASG for HR touring most Secretariat duty stations in 1985, issuing a penetrating report[9] which was badly received by the staff in the next SMCC. The year 1991 saw the HQ staff demonstrating for hours before the New York Secretariat building. In 1997, JIU Inspectors analysed the years 1995-1997, in an unpublished paper, as a time of crisis of relationships between management and staff, stating that both must contribute to its solution. From 2003 to May 2011, another crisis was observed at UNHQ between the Department of Management (DM) and the (headquarters) United Nations Staff Union (UNSU) which refused for eight years to participate in the SMCC, a move imitated by UNOG-Staff Coordinating Council (SCC) and the Field Staff Union (UNFSU) until 2006. In both duty stations, and in ESCWA (when visited by the Inspector in 2010), a high level of antagonistic relations between SRs and MRs was aggravated by personality clashes and cultural differences. Another telling indicator of a challenging work environment is the significant number of staff members in Geneva voluntarily participating in a stress management course (in French) offered by UNOG's Medical Services Section. Out of approximately 8,000 eligible staff members, around 1,500 signed up and 1,100 actually attended the course modules from January to October 2011.

13. Some of the difficulties alluded to above related to general policies or situations, including the financial crisis coupled with downsizing and redeployment. Others typically related to HR policies such as mobility, harmonization of allowances, management deficiencies in the application of the Organization's recruitment, placement and promotion policies and the establishment of ill conceived and time consuming management tools without neither sufficient prior testing (ex. the first Performance Appraisal System and the recruitment tools Galaxy and Inspira) nor internal controls. Most of these policies were justified as parts of the ongoing "reform of the Organization".

14. Grievances on the substance of measures decided were worsened by the chronic lack of communication, early consultation and sometimes good faith in negotiations between Staff and Management. While the principles and frameworks for mutual information, consultation and negotiation were available via joint bodies, the failure to effectively apply them creates a confrontational atmosphere.

15. With one exception[10] there were few major surveys of the staff-at-large to gauge the state of SMR. At the commendable joint initiative of the Department for Peacekeeping Operations (DPKO) and the Department for Field Support (DFS), a study was conducted between 2008-2010 covering the United Nations Headquarters and eight Peace Missions, involving 3,000 respondents to a survey on "promoting a positive work environment". A note signed by both USGs concerned revealed that the majority of staff were dissatisfied with (in descending order): *"1) fair promotion processes 2) availability of job related training that may lead to promotion/mobility 3) fair recruitment processes 4) availability of career planning/guidance 5) fair performance appraisal processes 6) managerial accountability to address abuse of authority"*.

16. The survey also revealed that *"Job satisfaction for staff both at HQ and in the missions is predicted by the treatment staff experience from managers and the quality of their relationships with colleagues"*. It further stressed that *"staff who tend to be happier in their posts are also staff who: feel recognized by senior management; perceive senior*

[9] SMCC/X/6, 12 April 1985: Status of Staff Management Relations, Report of a mission to duty stations and offices away from Headquarters, Pascal Negre.

[10] Cranfield University's School of Management's 1999 report issued a useful report entitled "Human Resources Management: Policies and practices in the United Nations Family of Organizations and Related agencies. A comparative analysis with European Government Institutions."

management to be accessible; feel that managers treat staff respectfully and demonstrate concern for their career aspiration; have supportive relationships with colleagues and experience respect for cultural diversity". The analysis made by the Inspector in the following chapters confirms that such a bleak picture, coming from the management of the United Nations, outlines both the symptoms of the crisis in SMR and major elements for its necessary treatment.

17. Views gathered on SMR in 2010 and 2011 by the Inspector were generally more optimistic on the management side compared to the staff side, with the latter giving more importance to the quality of SMR in particular as regards their level of inclusion in the determination of HR policies. SMR in some entities can be characterized as excellent (UNICEF[11]), cordial (UNECLAC, UNIFIL) or cooperative (UNICTY[12]) but these positive cases are more the exception than the norm. While in some duty-stations (DS) such as Vienna or Naqoura (Lebanon), local SMR may be qualified as good, they are challenged by frustrations caused, in particular, by a number of Secretariat-wide HR policies issued in 2011, perceived as unilaterally imposed. Elsewhere, as in Addis Ababa, Arusha, Kigali, Bangkok and Nairobi the quality of local SMR can best be described as neither positive nor negative but "fair"[13], while in UNHCR, it appeared "challenging".

18. Over the years, the chronic crisis observed in the biggest DS — UNHQ and UNOG, contributed to discouraging the active participation of the staff-at-large in the activities of the related SRBs. As expressed during meetings between the UN administration and some JIU Inspectors in the 1990s, only 15 per cent of the staff at UNHQ participated in Staff Council elections, with only 45 per cent of the staff-at-large paying staff union dues. It is instructive that as early as its fiftieth session, the General Assembly included *"improving the efficiency of SM consultations on administrative issuances"* as one of the objectives of the administration and management in the programme budget for 1996-1997. Presently, a divided staff representation has resulted in repetitions of the aforementioned situations, exemplified by the fact that neither UNSU nor UNOG-SCC could obtain a quorum in the formal meetings attended by the Inspector in 2010 and 2011. These appear to indicate that much work remains to be done for these SRBs to motivate their constituents to participate.[14]

---

[11] In UNICEF, the SRB has a say in the management structure through an ex-officio seat in the Global Leadership Team (GLT) which meets three times a year with participation set at least at the D-2 level; SRs also participate in the Divisional Management Teams (DMT).

[12] SRs and MRs were instrumental in working together to face the ongoing challenges of downsizing.

[13] The limited budget for this report did not allow the Inspector to visit more than one field mission.

[14] Attendance figures: 43rd UNSU Council meeting on 11 Nov. 2010: 9 participants; UNOG-SCC's annual Ordinary General Assembly (second call) on 4 February 2011: 50 participants; UNOG-SCC's Extraordinary General Assembly after SMCC on 12 July: less than 50 participants; it should be noted that neither UNSU nor UNOG-SCC were anywhere close to attaining a quorum for the aforementioned meetings. A table of staff participation in elections is presented in section IV, B.4. In 2009 only 19 out of 37 electoral units in the 43rd UNSU Staff Council had elected representatives while the remaining 18 seats were vacant.

B. Chronic weaknesses in the Staff-Management Coordination Committee (SMCC)

19. The SMCC, the sole staff-management mechanism at the Secretariat-wide level, had its own fair share of challenges, as it chronically suffered — as per its reports over the three last decades (see chapter III) — from two defects: the late submission of documentation by both sides and weakness in the implementation of its decisions, including their monitoring and follow-up. In 2011 those two factors became even more evident.

B.1 Late submission of documentation

20. Since the earliest SMCC sessions, representatives on both sides regularly faced (as delegates in intergovernmental bodies) delays in obtaining documentation from the other party,[15] a practice contradicting paragraph 8.1 of the SMCC TOR which clearly stated that "*the provisional agenda and all other working documents shall be circulated to all members, alternates and associate members* ***at least three weeks in advance of a session***". The time lead of three weeks itself reflects a reduction in half (from six weeks) decided in 1997. The risk that participants might question the impartiality of the Committee's secretariat given that it is currently under the control of one of the parties, is one of the reasons why it is recommended that it becomes operationally independent from the DM and placed under the sole authority of the President (*see Chapter VIII, Section B*).

21. During preparations for SMCC XXXII, the agenda and documents were not distributed to participants with enough lead time. SRs received them as late as 8 June 2011, just two weeks before they were to travel to Belgrade to attend the meeting. Therefore, no preliminary consultations could be held with staff-at-large on the issues tabled for discussion. While this was perceived by some SRs as a unilateral decision-making process imposed from the management side, the Department of Management (DM) argued that "*the delay in circulating was not (...) on the management side but because staff representatives could not agree to attend. As soon as they agreed to attend and submit their part of the agenda, it was circulated.*" This explanation would have sufficed if such situation were exceptional. But the documents for the crucial informal session on contractual arrangements (including its provisional agenda) held in Vienna from 26-29 January 2010 were sent as late as 22 January 2010, noting that the OHRM presentation was "*still being prepared.*"

B.2 Uneven implementation of SMCC agreements

22. The SMCC's credibility and effectiveness was most seriously challenged by the fact that, since its first sessions, many agreements arrived at through this forum have not been evenly respected and implemented across duty stations — either in full or in part. This failure became so systematic that the issue of implementation became a regular agenda item in the SMCC sessions. Nevertheless, implementation continued to be weak and uneven to the extent that successive sessions adopted a series of damage control initiatives (see Chapter III, section C2) but again with limited success. It must be recalled that within the limits of his/her delegated authority, each manager is accountable for the implementation of SMCC agreements.

[15] For example, SMCC VI (1983) report (para. 7) notes that the late delivery of essential documentation prevented the SRs to discuss it with their colleagues at their own duty stations.

23. Setting the stage for recent difficulties in SMR, the move — over the past 15 years — from secure permanent contracts into a system of continuing and fixed-term appointments has been a source of ongoing debate in the United Nations. Discontent has been growing among the staff due to being increasingly deprived of their traditional career prospects, with a general feeling of precariousness with regards to job security and resentment over the loss of acquired rights.

24. As noted below, some important decisions affecting staff welfare were taken either directly by the Secretary-General or indirectly through an insufficiently informed dialogue with the General Assembly, without any prior consultation or updates provided to the SRs. It is particularly troubling that some of these decisions were taken just after SMCC XXXII, during which the DSG affirmed that the Secretary-General had made consultation with staff one of his priorities".[16]

25. In view of the Secretary General's report (A/65/305/Add.1), the Inspector agrees with Management that the Secretary General presented the Beirut SMCC XXXI agreement in good faith to the MS. It remains to be known how strongly these agreements were defended before the MS. The absence of any mechanisms enabling SRs to witness these discussions highlights the lack of any real and direct channel of communication between the staff-at-large and the MS. As a third party, the Inspector can only observe ex-post **the enormous gaps between staff and management perceptions of the discussions between MRs and MS** once decisions are made and known. According to the SRs, when facing the MS, the management side "*withdrew from the agreed position*". According to the DM "*it had defended the position before the MS who did not accept it and went on with their own proposal.*" Nobody contests that the final text included terms that had been clearly rejected by the SRs in Vienna, as they excluded local staff in non-family peacekeeping missions and all staff in the Tribunals from being eligible for continuing appointments.

26. In recent years, significant aspects of major decisions taken by the General Assembly on contractual arrangements appeared to vary from what had been previously discussed at length and in particular agreed to between SRs and MRs at the SMCC meeting in Beirut in June 2010.[17] The implications of Assembly resolution 63/250 of 24 Dec. 2008, making provisions for three types of appointments (temporary, fixed-term and continuing) and resolution 65/247 certainly affected the frail trust between staff and management, notwithstanding the latter's explanations in this regard.

27. Management is thus perceived as having been unable to effectively and smoothly play its pivotal intermediary role between MS and SRs. In general, the staff-at-large perceived itself as having been inadequately involved in such an important process, both by Management and SRs. Even when, as in 2010, a common position is agreed to at the SMCC, the SRs have no means to observe, react to and influence what follows, particularly the deliberations and decision-making processes of the General Assembly on proposals by management in the Fifth Committee informal sessions or the even more restricted "informal informals". Likewise, management finds itself in the unenviable situation of facing up either to staff reactions regarding HR reforms ex-post facto, where it has neither the ultimate power nor the last word, or MS who are increasingly and more selectively sensitive to budgetary constraints.

[16] SMCC XXXII, para. 21.

[17] The positive outcome of the Beirut meeting contrasts with the preceding efforts in Vienna (via an informal special SMCC meeting in January 2010) which failed to reach an agreement.

B.3 Conflicting perceptions on major decisions allegedly taken without staff participation

28. SMR has been particularly affected by a series of initiatives by management (at various levels) promulgated both before and after the SMCC XXXII meeting (June 2011). SRs considered such moves as unilateral initiatives that were contrary to the spirit and letters of Staff Regulations 8.1 and 8.2 and Staff Rule 8.1 h (see texts in Annex I). The following table gives only recent examples of the major gap between the respective perceptions of SRs and MRs (the latter mostly based on comments received from the DM) on some of these cases, issues on which the Inspector lacks both the necessary information and legitimacy to assert a definitive position.

Table 1
Examples of decisions considered by SRs as taken without consultation

Topic	*Staff representatives' perception*	*Position of the U.N. Department of Management*[18]
Reform of contractual arrangements (2009-2011)	The Secretary-General, when facing the MS, withdrew from SMCC agreements negotiated over the course of several years on contractual arrangements. The new HR reform was launched without the endorsement of SRBs, and contained changes that had been completely rejected by SRs in January 2010 in Vienna.	"This is how the inter-governmental process works. Member States have the prerogative to decide and have indeed made it clear that they do not need the endorsement of SRBs for HR initiatives."
Mobility	Letter from the SMCC-VP to the SG dated 14 Sep. 2011: "As you know, staff and management had been working together for the past year on developing a mobility policy. Two models were explored: the first would increase incentives to move, the second would bring in a managed mobility system. At June's SMCC, staff and management agreed to explore both models through focus groups and further analysis with a view to preparing recommendations for approval next summer. However, two months on, that agreement has been breached and the working group has been told that only the managed mobility model will be accepted by you."	

[18] When no other source is quoted, the source is the comments received on 20 September 2011 by the JIU from Department of Management at UNHQ on the draft of this report.

Topic	*Staff representatives' perception*	*Position of the U.N. Department of Management*[18]
Mobility 2	Email from SMCC VP to ASG for HR dated 29 Nov. 2011: "The working group has been mandated by SMCC and that mandate cannot be changed by either party. This mandate includes a request to further examine both options with a view to putting forward a final proposal. The paper presented by management (in September) prejudges the outcome of the working group and consequently undermines its ability to undertake the task it was mandated to perform. It (the paper) clearly forces management members of the group to follow the broad lines set out in the proposal and consequently, erodes the trust staff have in their ability to have their views taken into account. The paper further inhibits the group's ability to examine the issue in a balanced and fair manner. In order to redress the imbalance, the staff members of the group will work on their own proposal, which we hope will form the basis of the group's agenda."	Email from ASG for HR to SMCC VP dated 21 Nov. 2011: "The SG respects the process of the SMC and notes the agreement from Belgrade. At the same time (...) the voluntary mobility model is not producing effective mobility in our Organization. (...). Therefore only a more managed approach where staff change jobs periodically throughout their careers will truly "enable mobility". It is important that this is clear from the outset as the working group takes forward work on the policy."
New system of administration of justice	Unilateral decision to ask SRBs to subsidize the Office of Staff Legal Assistance (OSLA), within the Office of Administration of Justice pursuant to General Assembly resolution 63/253 of 24 December 2008.	"Discussions between MRs and SRs on the issue of a staff funded scheme have been based solely on numerous General Assembly resolutions in which the GA invited the SRs and then requested the Secretary-General to present proposals for such a scheme (Res. 61/261, 62/228, 63/253 and 65/251). The SRs were consulted on each occasion and their views on the matter were put before the GA in each case."
Safety and security	Issuance of the Policy Manual for the Security Management System (8-4-2011). The manual was elaborated without any consultation with FSU, despite a prior agreement to ensure their participation in country Security Management Teams.	

Topic	*Staff representatives' perception*	*Position of the U.N. Department of Management*[18]
Harmonization of conditions of service of staff serving in Non-Family Duty Stations (DC) (2010)	As outlined in the FJNC minutes (April 2011) the changes in conditions of service for Field Staff and particularly the Field Service Officers (FSO) category were never discussed with the SRs but imposed unilaterally by management. These changes provoke not only financial losses, but also a considerable reduction in FSO mobility, a key element of their category status since its inception, which for example made hitherto possible their redeployment into any start-up mission in 48 hours.	"The changes were discussed with FSU and staff-at-large in a number of occasions. Ultimately, it was a GA decision. The question if whether they were on permanent appointments is irrelevant to the conditions of service."
Harmonization of conditions of service in the field (2010)	Re-designation of a number of hardship posts (e.g. Tinduf[19]) as "family duty stations" without any consultations with SRs.	"Staff representatives have never been part to the process of designating family/non-family duty stations… and that is for ICSC as a function of DSS advice not a matter of negotiation with staff".[20]
Various memos requiring approval of draft ST/SGBs or ST/AIs during the summer of 2011 by e-mail only	In 2011, instead of discussing draft administrative issuances during the June SMCC session as would have been the most appropriate forum for effective consultations, the management sought comments on such documents only by email soon after the SMCC session concluded and provided only a short time to respond. This was the case for the draft administrative issuances on Grounds Passes and Permanent Residency.	

C. Open crisis in 2011

29. It is against the aforementioned background that a number of significant events took place in 2011 that can only be termed as constituting an open crisis in SMR at the United Nations, related to the organization of HR reforms as discussed by the General Assembly, within the context of and pressurized by serious budgetary constraints:

(a) On 7 March 2011, a memorandum from the Secretary-General's Chef de Cabinet was sent to all heads of departments and offices, requesting that a proposal

[19] Families would have to live within a military camp without a school or hospital, in a remote location in the Sahara.

[20] However, according to the Inspector's discussions with the ICSC, the process of classifying duty stations does involve staff federations.

be devised within a very limited time frame for 3 per cent cuts across the board in their budgets for the 2012-2013 biennium. In a letter to the Secretary-General dated 22 March, the Vice-President of the SMCC noted the "alarm and dismay" of the staff-at-large at such a move, noting that such bleak budgetary realities "demand mature discussion, not hasty action" and that the "staff, managers and indeed the Member States expect nothing less", and reminding the letter's addressee that the rules and core values of the United Nations require that measures with possible impact on the staff-at-large must be the subject to prior consultations with SRBs without exception;

(b) On 16 May 2011, the Field Staff Union (UNFSU) — representing 7,500 staff members at the professional and FS levels — announced its withdrawal from "participation in Staff- Management (SM) consultations held under the auspices of SMCC", with immediate effect. It accused the administration of using the SMCC 2002 TOR as "a management control tool" and highlighted its grievances on contractual arrangements and the administration of justice. It termed the SMCC as "one-sided, where one party has all the power and the other none". UNDP-UNFPA-UNOPSSA (affiliated with UNISERV) also withdrew from the SMCC shortly after;

(c) On 18 May 2011, the SMCC Vice-President sent a letter to the President of SMCC on behalf of 12 SRBs stating their "grave concerns about the lack of proper consultations" and that they had decided to attend SMCC XXXII only "to avoid a total breakdown in the dialogue process, but not under any conditions". The letter further noted that they would participate despite the difficult situation they currently faced with Management in order to "guarantee that authority and weight are returned to SMCC." The letter went on to enumerate four provisions that needed to be met including:

(i) Holding SMCC XXXII in New York;[21]

(ii) Dealing with the implementation of SMCC agreements made since 2007 through a 2+2 group;

(iii) Finalizing an ST/SGB (the Terms of Reference (ToR) for a Staff Management Committee (SMC) "which has been put on hold by the Secretary-General"[22]; and

(iv) Discussing the draft ST/SGB on continuing appointments.

30. Following internal consultations prior to the SMCC session, the SRs who remained practically threatened to reconsider their engagement with the Committee should they not receive a clear commitment with regards to the aforementioned

[21] This was in accordance with the alternate locations required by the ToR in force, (ST/SGB/2002/15, para. 7.2) but contrary to an agreed decision of the previous session that FSU would propose a venue in the months following SMCC XXXI (report para. 80). UNFSU proposed Brindisi, offering the use of equipment and support staff free of charge. However, management opted for a hotel in Belgrade, with the Department of Management (DM) stating that *"the decision was taken because the estimated costs were lower in Belgrade"* following discussions with UNFSU.

[22] It had apparently been overlooked or forgotten by many representatives interviewed by the Inspector that the 2008 agreement (as contained in the report of the SMCC XXIX (Annex IV/Appendix 4) had been reached with the understanding that *"further consultation was necessary with member unions who were not present at the current session prior to submission to the Secretary-General in accordance with the established practice."* This sentence was clearly alluding to the UNSU at UNHQ, before it had decided to come back to the SMCC after its own elections in May 2011.

provisions. The opening session of SMCC XXXII, as noted in the session report, focused on the challenges faced. While the ASG for OHRM reconfirmed her commitment to work constructively and engage with all participants to reach agreements on all agenda items, the re-elected SMCC Vice-President noted "troubling developments in staff-management relations, highlighting the different proposals that had been provided to the General Assembly on continuing contracts, the recent budget cuts and the note on mobility on which staff were not consulted." She felt there was a lack of respect for the consultative process that reaches up to the higher quarters of the Organization.[23]

D. SMCC XXXII apparently solves the crisis

31. Before addressing a number of substantive issues, SMCC XXXII addressed three of the four aforementioned provisions.[24] On the second provision, following a proposal by the President that was welcomed, it was agreed that the follow-up of the status of the implementation of SMCC agreements would be done by the SMCC Secretariat in a more systematic manner and updated on a continual basis. Periodic updates would be shared with SMCC participants. The agreements would also be numbered and this would be referred to in the text of the report.[25]

32. On the third provision, following informal consultations among themselves, the SRs threatened not to engage in the formal SMCC if they did not receive guarantees of positive responses from the highest level of management. The Secretary-General designated the Deputy-Secretary-General (DSG) and the Chef de Cabinet to discuss the issue with the SMCC via videoconference, where the DSG clearly "*committed to promulgating the draft SGB on the SMC by 21 September 2011*"[26] (the commitment was duly honoured on 8 September 2011). This unprecedented bargaining event is reported in para. 17 of the SMCC XXXII report, with the simple mention of "a considerable deliberation".

33. The last basic issue was the lack of consultations before HR policies were decided upon: SRs requested that they be included in the work of the change-management team and that staff be provided with relevant information and the opportunity to contribute and be appraised of the process. Management indicated that the change-management team would welcome the participation of the staff as part of the process and proposed that a focal point through which staff could share their ideas and concerns, be designated to be included in the change-management team's network.[27]

34. With regards to the consultation process, SRs pointed out the need to update the 1994 ST/SGB/274 ("Procedures and terms of reference of the Staff Management consultation machinery at the departmental or office level") to better define the meaning of consultation and to establish procedures for the consultative process. Management concurred with the need to review and update the bulletin and invited SRs to provide suggestions for a revised text. It was agreed that SRs would nominate a focal point to work informally with management to draft a revised SGB, which

[23] SMCC XXXII, para 10.

[24] The first provision, that of holding the SMCC session in New York, could obviously not be dealt with, as the meeting was already under way in Belgrade.

[25] Ibid., para 16.

[26] SMCC XXXII, para 17.

[27] Ibid., para. 18.

would then be circulated for comments in accordance with normal procedures.[28] During the videoconference, "the Chef de Cabinet indicated that there was openness to the proposed facilitation of staff making their views known to the Fifth Committee. He also felt that underlying many of the issues was the lack of trust, and that there could not be degrees of trust. Either there was trust or there was not, and **both sides should try to rebuild trust".**[29]

35. The aforementioned sentence gives the exact dimension of what is [illegible] take with regards to SMR in 2011 and defines a major goal for the present report. It is clearly anticipated that (its) recommendations would need to be reviewed and consulted by both staff and management and that the ToR of the SMC as issued and ST/AI/293 (on facilities for SRBs) as revised "may subsequently need to be further updated depending on the recommendations of the JIU report".[30] As it is advisable that standard facilities granted to SRBs and staff federations be harmonized system-wide, the recommendations will take into account observations made within the two successive JIU reports on SMR.

36. Following SMCC XXXII (Belgrade), the most recent developments in S-M dialog at the United Nations indicate some improvements. Along with the DSG, the present Secretary-General received (for the first time in his term in office) the staff unions of the United Nations. The VP of SMCC termed the meeting as valuable and permitting "a constructive exchange of views on a wide range on matters affecting the staff, setting a precedent for the future". Topics discussed included (among others) the importance of consultation, staff security and systemic issues emerging from the internal justice system. Other messages exchanged from September to December 2011 between the SMCC VP and senior management at the United Nations (DSG and ASG for HR) on various subjects (mobility policy, temporary appointments, travel and the change management team) appear to indicate the need for better dialogue and an improved understanding of what consultation involves.

III. The United Nations Secretariat Staff-Management (Coordination) Committee (SMCC/SMC)[31]

37. Many elements of the present crisis in SMR as outlined in chapter II could possibly have been resolved amicably if dealt with regularly through the SMCC — the lone existing official forum for staff-management dialogue at the United Nations Secretariat level. An understanding of its working, successes and challenges over the past 30-plus years as outlined in this chapter is vital for furthering SMR in the United Nations while Chapter VIII outlines the ways in which the Committee can move forward.

[28] Ibid., para. 19.

[29] Ibid., para. 21.

[30] Ibid., para. 22.

[31] The draft of the present report was sent for external comments in July 2011, while the TOR replacing the SMCC with the SMC was issued on 8 September 2011 (ST/SGB/2011/6). The final version of this report is updated and will continue to call the Committee "SMCC", as regards the past, and use "SMC" with regards to its new TOR and its future. While the new SMC TOR can be considered as progress, the Inspector regrets the loss of the word "Coordination" in the title, as it reflected the Committee's role as both the coordinating mechanism and the apex of all JBs existing in the various duty stations.

A. Terms of reference and authority

38. Established in 1980[32] the SMCC had its ToR modified on five occasions, with a sixth revision issued on 8 September 2011, as promised by the DSG to SMCC XXXII following pressure from SR members. According to its new Terms of Reference:

> *1.1: The objective of the Staff Management Committee (SMC) is to have an equitable and effective principal mechanism for staff management negotiation.*
>
> *1.2: The SMC shall identify, examine and resolve issues through consensus relating to staff welfare; in particular such issues as conditions of work, general conditions of life and other personnel policies, as provided for in staff regulation 8.1(a).*
>
> *1.3: The SMC shall agree by consensus on those issues within the authority of the Secretary-General. For matters outside the authority of the S-G, the Committee shall agree on a position to be presented to the General Assembly. In the instances where consensus is not reached in the deliberations, modalities shall be developed by the SMC to facilitate reaching a consensus. Should these efforts fail, the S-G shall appoint a party acceptable to staff and management to mediate and, if necessary submit a tripartite presentation to the S-G for a decision.*

39. The new ToR is based on Staff Regulations and defines the same scope for the SMC as the former one for the SMCC. However, it strengthens the authority of the Committee by being clearly "results-based" and by insisting on the required consensus, while the former ToR only stated that "the SMCC shall endeavour to reach agreement on recommendations to the Secretary-General on policies and procedures".[33]

40. If strictly implemented, the new ToR provides extraordinary leverage to the staff to participate in decision-making processes impacting upon themselves. In a clearer manner than the previous ToR, this text not only enables the duly elected SRs to initiate proposals to the Secretary-General, but also prohibits that policies impacting upon staff welfare be unilaterally promulgated. Importantly, it gives an active role to the staff-at-large via the SRBs and JBs represented, which will have sufficient time (a minimum of six weeks according to art. 7.5) to consider and comment upon them. The history of the SMCC shows that a question on which no agreement could be reached at any given session becomes the object of new efforts at the following session. Within the new ToR, unilaterally promulgating or shortening time for consultation becomes a real infringement to a strong normative text, made even worse in the absence of any discussion before the Committee. However, in order to create a real rule of law in this respect, those responsible for such acts should be held accountable before a judicial power on administrative actions. Currently, the SMC is well placed to request and ensure that the regulations, rules and ToR are respected, implemented and enforced.

41. The SMCC has already attained a certain measure of success in enforcing its authority, with SMCC VII (1983) qualifying its own process of "negotiation" and agreeing that all Administrative Instructions (AIs) affecting staff members away from headquarters should be submitted for consultation with local JACs or SRBs. Such important agreed texts often result from difficult and lengthy discussions possibly

[32] ST/SGB/176.

[33] Para. 1.1 of ST/SGB/2002/15

entailing numerous sessions, and reflect clear evidences of **negotiated** outcomes. The credibility of agreements arrived at via Committee sessions is furthermore enhanced when taking into account the fact that **historically, SMCC reports (with annexes containing the agreements arrived at) have always met with the approval of the Secretary-General as the chief administrative officer.**

B. Composition and relations with local joint committees

42. The SMCC membership — comprising of an equal number of SRs and MRs — includes nine SRBs (each representing one of eight designated duty-stations[34] as well as the FSU for field staff) as well as nine members "at an appropriately high level representing the administration, with due regard to the need for representation from the various duty stations."[35] It also includes associate members (upon request)[36] and as all interventions made by SMC members carry equal importance[37] (a principle derived from the desire to attain agreements by consensus), weighted representation (according to the number of SM represented) becomes a non-issue in the SMC.

43. Similar to the previous ToR, the new text has provisions for alternates (one per member) and advisers (one for each side, who may request to speak). A President shall be selected by the S-G from a list proposed by the SRs (Staff Rule 8.2 b). The SRs will elect one of them as Vice President for a term of one year. The SMCC's President plays the role of a neutral moderator and is supported by a Secretariat which updates participants on SMR related developments in-between sessions and is allocated a Secretary and a Legal Adviser. The Committee establishes its own procedures and decides on its programme of work. SMCC sessions have been held annually since 1985 (before that, semi-annually) lasting just over 6 days on average, with three days reserved before and after each session for consultations among SRs. It brings together approximately 50 participants on average during its annual session. As a new element of the SMC ToR, the SRs "shall designate a lead person to present their position and conduct negotiations." (art. 3.7). The management representatives are led by the USG for Management and the ASG for HRM with the same functions, to whom the Secretary-General delegates authority to reach consensus with respect to agenda items falling in the scope of his authority. (art. 3.8). Future experience will show whether this helps the Committee work.

44. The SMCC worked closely with the joint staff-management bodies established in the DS concerned and the field, often taking on board their initiatives, consulting with them, reviewing their work and occasionally entrusting them with special missions. When a joint body was unable to resolve HR policy issues raised locally, it could refer it to the SMCC for its recommendation. The new SMC ToR reads in this regard: "The existence of the SMC does not preclude the consideration by local joint staff management bodies of issues of importance to staff globally, it being understood that such matters shall be referred to the SMC for final approval." Apart from issues dealing with the implementation of previous agreements, the SMCC usually addressed global issues rather than duty station specific issues.

---

[34] UNHQ, OAH (Geneva, Nairobi, Vienna), Regional Economic Commissions (ECA, ESCAP, ESCWA, ECLAC) and the UN Logistics Base (UN LB, Brindisi) where the U.N. FSU is now headquartered.

[35] STSGB/2002/15 and ST/SGB/2011/6 para. 3.1 (b)

[36] Their list in the former TOR included: ICTR, ICTY, UNDP, UNFPA, UNHCR, UNICEF, UNOPS and UNU; both Tribunals have a constitutionally limited life expectancy.

[37] ST/SGB/2011/6, Article 1.4.

C. Positive elements of the SMCC

C.1 The best practices of Working Groups (WGs)

45. Working Groups were subsidiary SMCC entities (utilized since its first session) comprising small groups of knowledgeable and experienced representatives who undertake in-depth deliberations on multifaceted issues that cannot readily be resolved by a full plenary within the limited duration of an SMCC session. While some WGs were intra-sessional (limited to the duration of an SMCC session), others are inter-sessional (with flexible duration) and their format (more time among fewer but more knowledgeable members) allows for serious deliberations and consultations with all interested/experienced parties with the intent to issue recommendations for the SMCC's consideration. With most WG reports (and their recommendations) meeting with the SMCC's approval, they became a regular feature, culminating with the formal adoption of a ToR for an inter-sessional mechanism during the 19th SMCC (1995).

C.2 Initiatives to further the monitoring of the implementation of agreements

46. As noted above, SMCC's effectiveness has been regularly hindered by both the non-implementation and the uneven implementation of agreements arrived at across duty stations. It should be made clear to managers at all levels, that they have an official duty to implement any Committee agreement once it has been agreed to by the Secretary-General. Indeed, within the limits of his/her delegated authority, each manager is accountable for their implementation. The SMCC has adopted a number of measures to address the issue of the weak and/or uneven implementation of agreements arrived at, including, among others, the establishment by SMCC XX (1996) of the principle of joint monitoring. Other initiatives adopted in this regard should have greatly improved monitoring had they been respected and implemented.[38] Indeed, the number and diversity of such initiatives reveal the resilience of the issue. The importance of such a follow-up function is also demonstrated by the fact that, from 2003-2005 — a particularly low period for SMR during which no SMCC session took place — two joint WGs, in September 2004 and August 2005, still managed to produce a table on the implementation status of previous agreements. (See chapter II, C. "Open crisis in 2011" for another example of similar importance).

[38] These initiatives include:

(a) WG for inter-sessional follow-up (SMCC V and XIX);
(b) Six-month progress reports on implementation following approval (SMCC XV);
(c) Report by the local JACs to SMCC Secretary on implementation at DS level to be submitted three months prior to each session (SMCC XX);
(d) Planned implementation dates (SMCC XX);
(e) Table for follow-up of agreements (SMCC XX);
(f) One-time review of the implementation of HR policies in duty stations away from HQ, particularly on conditions of service of local GS staff (SMCC XXII);
(g) Establishment of a (2+2) (Joint) Contact Group to assist the SMCC President to monitor the implementation of past and future SMCC agreements (SMCC XXVII);
(h) Recommendation that JAC meetings be convened in all duty stations shortly after each SMCC session to monitor the implementation process;
(i) Call upon the local JACs to immediately refer issues unable to be resolved at the local level to an OHRM "focal point for SMR" (SMCC XX and XXV);
(j) Recommendation that, in the future, the list of implemented actions should always make reference to the specific session during which the agreement was reached and the relevant paragraph number, as well as specify the designated action office and the anticipated time frame (SMCC XXIX).

47. The list outlined in footnote 38 highlights the urgent need, acknowledged both by OIOS (A/64/221) and General Assembly resolution 63/250 to strengthen the monitoring function of OHRM and to further communication among managers and among SRs. Despite acknowledgment by MRs on different occasions of the need for increased monitoring,[39] SRs in SMCC continued to urge management[40] to establish a concrete joint monitoring mechanism as agreements continue to go unimplemented. This may have cost implications and an appropriate budget should be proposed by the Executive Heads concerned to their governing bodies.

48. It is regrettable that regular delays of several weeks/months — between the adoption of an SMCC report and its eventual approval by the Secretary-General, followed by publication, have diminished the immediacy of the SMCC's outcomes and limited the scope for the early implementation of its agreements. For example, the report of SMCC XXXII was published in late September 2011.

C.3 Overall efforts towards agreed solutions

49. While discussions in the SMCC — unlike a general debate — were targeted towards the attainment of agreed solutions, the new ToR for an SMC (art. 1.3 as quoted above) clarifies better than the previous SMCC ToR (art. 1.2) the procedure to follow when disagreements cannot be easily overcome. While some disagreements can readily be resolved by respecting basic participation procedures (see Table 4 on rules for constructive negotiations), in situations where conflicting positions are clearly established, various options have in fact been utilized by the SMCC over the years. These include the following processes:

- Preparation of a paper by a concerned party (for the next session) outlining the current system and evaluating the pros and cons of the alternative solutions proposed;
- Each side is tasked with preparing revised texts of its respective papers for the next session;
- The President, in consultation with the legal adviser, prepares and circulates a consolidated text before the next session;
- One side's withdrawal of its proposed text;
- Where no agreement was possible at the time of the session,
  - The two sides presented their own (often contradictory) recommendations to the Secretary-General for his decision;
  - The SMCC President, in transmitting the session report to the Secretary-General, annexed an explanatory letter identifying each party's position; the Secretary-General then had the option to call upon SRs and/or MRs to provide any additional information required to make a decision;

[39] During SMCC XVII, the administration noted its intent to increase monitoring of the proper implementation of administrative rules and practices; in SMCC XX, MRs agreed that increased monitoring of approved SMCC recommendations were in line with SMCC agreements.

[40] For instance, during SMCC XII (1988), SRs requested that the administration ensure the implementation of recommendations made at SMCC XI concerning the need to regularize the functioning of the JAC machinery in UNIFIL, UNDOF and UNTSO (SMCC/XI/12 Annex IV, para. 9).

– The SMCC submitted WG reports to the Secretary-General for consideration, together with the Administration's reservations and additions proposed by staff, intended to serve as general advice.

In the Inspector's opinion, the latter option (when no agreement was possible) contradicts the essence of the SMCC which is to produce agreements. The established procedures for the SMC are more coherent.

50. The worst-case scenario is an unclear/uncertain agreement where some (or all) representatives on a particular side perceive that their views were neither considered nor reflected adequately in an agreement, or that they were betrayed — either by fellow representatives on their own side, or by their counterparts on the other side, or even by the co-rapporteurs.[41] When facing such a situation of a perceived breakdown in trust, aggrieved parties have, at times, withdrawn entirely from the entire SMCC process. Such negative experiences prompted the SMCC in 2008 to issue a proposed draft ST/SGB on a "new" SMC, now promulgated. The Inspector believes that this ToR does not preclude other practical changes reflecting lessons learned, particularly in recent years, as a way for the Committee to implement article 7.3 of its ToR, which reads: "The SMC will establish its own procedures".

51. Overall, the SMCC had significant achievements over the years, measurable by the resulting agreements attained, that can broadly be categorized under three types: agreements on substantive issues (ex. Performance Assessment System, administration of justice); agreements on SMR-related issues (ex. facilities and time release for SRs, JBs); and agreements on the Committee's own issues. A subjective assessment by the Inspector of all the SMCC reports (see annex II) reveals differing "moods" in SMR, with the "lows" clearly associated with decisions on staff welfare made without prior or adequate consultation with SRs (despite clear Staff Regulations and Rules) as well as frictions among SRs and MRs aggravated by conflicts among leading personalities (annex III lists only the SMR-related references).[42]

D. Challenges that need to be addressed for a better functioning Committee

D.1 Reviewing the membership structure

52. While the same Staff Regulations and Rules do apply to all entities represented within the SMCC, including its observers, there are significant differences in their HR policies because of their different profiles, mandates, types of work etc. and the practice of their executive heads to issue administrative texts which, in principle, are not meant to contradict common staff rules. In its comments, DM stated that "the majority of the issues before SMCC affect the Secretariat only". The new ToR of the SMC appears to have resolved the issue of distinct participation rights for Members and Observers as often discussed in the SMCC, with Section 3.4 of the SMC TOR clearly stating that:

> *Duly designated representatives of organizations and organs of the United Nations system whose staff are directly affected by the Staff-Management Committee agreements shall be granted the status of associate members upon*

[41] This is an example of non-compliance with "common sense rule # 5" on cohesion and coherence (defined in Chapter VII).

[42] The references to all other agenda items were also worked on by the JIU team but were not added to the report but for the sake of brevity.

request. Associate members may fully participate in the discussion and provide their opinions on all matters. On matters that directly affect these organizations and organs, their representatives shall have the same rights of the regular members and fully participate in the negotiations.

D.2 Resolving uncertainties in delegated authority

53. Uncertainties in the delegation of authority from the United Nations to the entities and their Executive Heads served as a key factor in undermining the effectiveness of the SMCC's work. The exact level of DA to each actor (line or HR-manager, EHs of separately administered entities, and even the Secretary-General by Member States in accordance with Article 97 of the Charter), should be clarified for all SMCC participants on both sides on the basis of clear legal and administrative texts (and the proper application of the principle of subsidiarity) as early as during the drafting stage of the provisional agenda. Identifying who in the United Nations Group has authority on what and in which area, should be one of the main tasks of the SMCC's legal adviser who could benefit greatly from the ongoing efforts of the Department of Management in compiling all pertinent official texts on the delegation of authority for financial and human resources,[43] as well as from the JIU report on various accountability frameworks in the United Nations system (mandated by the General Assembly in its resolution 64/259, para. 4).[44]

54. Similarly, the SMC ToR clarifies in its article 1.3 that discussions have the objective of attaining agreements by consensus on those issues within the authority of the Secretary-General and, ideally, a common position to be presented to the General Assembly for matters outside the authority of the Secretary-General. The participants should be informed accordingly by labeling items as either "for agreement" or "for common advice to competent bodies." in the (provisional) agenda of each session. The latter category would include all system-wide issues deriving from the report of the ICSC, as well as some United Nations HRM issues — including those involving budgetary implications and changes in Staff Regulations.

55. For items "for agreement", the Secretary-General would simply need to implement the agreements arrived at and inform the MS about them at the earliest convenience through the report of the SMC. For the other items, the Committee can at best recommend a common agreed position that would be defended before the ICSC and ACABQ both by MRs[45] as the administration of the Organization and by SRs through their respective Federations. In the past the SMCC used to defer its own consideration on such issues when they were already actively under consideration by the competent bodies.[46] As such, the SMC should have an opportunity to discuss in depth and as much in advance as possible on system-wide issues, when they impact on any category of United Nations staff. If agreed, the resulting position should be presented to the Member States of the Fifth Committee as the common SMCC position of the Staff and the Secretary-General.

---

[43] Efforts to clarify delegated authority comply with Rules 1 and 2 outlined in Table 4.

[44] JIU/REP/2011/5: "Accountability Frameworks in the United Nations System."

[45] SMCC XIV, (1990): on the agenda item "security and independence of the civil service", "the administration took note of the staff proposal and concerns and promised to take up the issue in the context of CCAQ and possibly ICSC at the appropriate time."

[46] See SMCC I (1980), para. 7 regarding extension of the education grant to GS and related categories.

56. Agreements reached at the SMCC do carry their own weight and can influence bodies like the ACABQ,[47] the HLCM and the ICSC, sometimes too much in the opinion of representatives of other organizations.[48] Overall, the SMCC's track record of relationships with other bodies has been a mix of both close cooperation (ICSC) and challenging relations (former ACC) at different times.[49] The SMCC on its own did not initiate direct contact with such bodies, and its successor shall continue to be mindful of the fact that "any specific measure of support that has financial implications would have to be subject to authorization by the General Assembly under the normal budgetary procedures".[50]

D.3 Furthering the interest and understanding of Member States on developments in the Committee

57. The Inspector strongly regrets and sees no justification for the absence of official dissemination to the MS of the reports of the SM(C)C annual sessions, which aggravates the lack of direct interaction between the SMCC and intergovernmental bodies.[51] He also regrets the limited time allocated to SMR in discussions on HR items. Such situations can account for the high level of unawareness and lack of interest on SMR issues, relatively to other HR issues observed among the MS delegates (even based in New York) and might also partly explain the low level of implementation of SMCC decisions, including their possible funding implications. Subsequently, the MS delegates interviewed in New York repeatedly reiterated to the Inspector their interest in receiving clear and balanced information on SMR and hearing only one voice from the staff side.

58. It may be noted that some information is provided by management, which, every two years prepares the Secretary-General's reports on HR issues for the Fifth Committee and may orally develop its own vision of developments in SMR, including from the most recent sessions of the SMCC. The sharing of staff views with MS is considerably more limited. The various SRs sometimes have difficulties to speak with one voice, in particular, because no one in the staff side has received a clear United Nations Secretariat-wide mandate in this regard, not even the SMCC Vice-President who in recent times sent letters to management on behalf of the SRBs participating in the SMCC.

59. The new SMC ToR does not clarify the Vice-President's role, apart from his/her role as a replacement for the President; importantly, the VP cannot speak on behalf of his/her constituents. Even if the VP or any other SR democratically nominated by the staff was to receive such a mandate, the present framework does not enable him/her to orally present staff views in informal Fifth Committee discussions on HR issues, as currently only a common document on behalf of all staff can be presented. This is in accordance with paragraph 4 of resolution 34/220 (1980) in which the General Assembly expresses "its readiness to receive and consider fully the views of the staff as set out by a single recognized representative of the staff of the United Nations

[47] As on the protection of locally-recruited staff, SMCC V, 1982, para. 15.

[48] The next JIU report on SMR in the specialized agencies and common system will revert to this issue.

[49] See SMCC VII, para. 34, on allowances in cases of evacuation — to be addressed by the expanded ICSC working group on the designation of hardship DS; SMCC XVII, para. 52, on age of separation, by the Pension board or Unified personnel nomenclature by the ICSC; SMCC XVIII, paras. 64-65, on the review salary survey methodology — it was agreed that SRs would prepare a list of concrete proposals for the Administration's review, with a view to submit them to the ICSC.

[50] SMCC IV (1982), para 16.

[51] In 2008, the SRBs having participated to the SMCC session had its report disseminated by them as an official document A/C.5/63/3/Add.1.

Secretariat in a document to be submitted through the Secretary-General and issued under the item entitled 'Personnel questions'" (now "Human resources management").

60. SMCC has not favoured any encroachment by the MS upon the authority of the Secretary-General. It even regretted that the "attempts by MS to amend the Staff Rules constituted a further erosion of the Secretary-General's prerogatives".[52] Indeed, as acknowledged by the former USG of DM during SMCC XXIX with regards to the General Assembly's approval of the new internal justice system, a unified staff-management position on any proposal carries "political and moral strength" in the eyes of Member States, increasing their scope for acceptance. Subsequently, there is no official and real contact to date between the staff-at-large via their representatives with their ultimate employers (Member States) — one of the main conditions for any collective bargaining framework, as conceived and recommended by ILO.

61. The Inspector is of the view that, as a minimum service, **from now on all Member States should officially receive the report of every SMC session, prepared under the authority of its President. Such a report which represents the respective or agreed views of both parties should be presented by the Committee's President during an informal annual meeting with the MS to discuss the outcome of the most recent sessions, including reporting on the status of the implementation of agreements adopted in previous sessions.** SRs and MRs could attend such a meeting to take stock of the comments and suggestions. While no substantive decisions would be made in such a meeting, it would allow all stakeholders to develop an understanding of, and an interest in the most pressing SMR issues as well as further transparency and mutual understanding. In order to strengthen communication and understanding between the staff and the MS, the Inspector suggests that the SMC could set-up a working group on this issue, the outcome of which could be presented to the Fifth Committee of the General Assembly once agreed upon by the Committee. The implementation of the following recommendation is expected to enhance the effectiveness of the SMC.

Recommendation 1

The Secretary-General should provide all Member States with the reports of all forthcoming SMC sessions, including their annexes and should further facilitate the arrangement of an informal meeting on an annual basis for the SMC President to present to the Member States the report of each session, including reporting on the status of the implementation of agreements reached in previous SMCC sessions.

D.4 Furthering professionalism in the SM(C)C

62. The range of issues discussed by the SMCC is so broad that few participants (on either side) are able to adequately master them, including the corresponding updated texts and policies in effect for all pertinent issues. While the extensive use of WGs is useful in alleviating this need, an active participation in the Committee requires familiarity by the representatives on agenda items to be discussed. Aware that a number of representatives appeared to lack such knowledge,[53] both sides expressed a clear desire

[52] SMCC IX, 1984, para. 16.

[53] Training in this respect was an idea already put forward by the staff at SMCC XVIII (1994) and by both parties (for the benefit of the other one!) at SMCC XX (1996) before they finally agreed on a common need.

for organizing relevant training (as agreed in 2007 but never implemented because of alleged financial constraints).[54]

63. The Inspector acknowledges that this is particularly demanding for newly elected SRs, in particular when lacking sufficient time release from their regular duties as staff: they must not only communicate and coordinate within their peers, but also (as MRs) undertake discussions with (possibly) external HR specialists on issues under consideration. Provisions for alternates as a means to further preparedness, while useful in terms of division of labour and accountability,[55] have also resulted in an increase in the total number of SMCC participants. Currently, each delegation is limited to two attendees per SRB. Some SRBs have also requested for experts and other executive committee members to attend the SMCC (in both cases, at the SRB's own expense).

E. Consultation or negotiation?

64. This sub-section outlines the main observations of the Inspector, on the much debated concepts of consultation and negotiation, based on a thorough review of 31 years of SMCC reports, as well as an analysis of texts and interviews on SMR practices during 2010-11. Indeed, disputes arose at different times in the SMCC[56] on the type of interaction that should exist between the Secretary-General and SRs. In this regard, it is useful to reflect on Judgment No. 380 of the ILO Administrative Tribunal which attempts to clarify the distinction:

> *If the end-product of the discussions (to use a wide and neutral term) is a unilateral decision, 'consultation' is the appropriate word. If it is a bilateral decision, i.e. an agreement, 'negotiation' is appropriate. Decisions are reached after consultation; agreements after negotiation. Negotiation starts from an equality of bargaining power (i.e. legal equality; economic strength may be unequal); consultation supposes legal power to be in the hands of the decision-maker, diminished only by the duty to consult. Where there is only a simple obligation to consult, the decision-maker's duty is to listen or at most to exchange views."*
>
> *"The ordinary employer, who has no contractual power of fixing wages, is always in this position and always has to negotiate in order to get any agreement at all. The organisations on the other hand, with their reserve power of unilateral decision, are only in that position if they put themselves there voluntarily and because they want an agreed solution in preference to one that is imposed.*

65. In the United Nations, Staff Regulation 8.1(a) — the foremost Staff Regulation on Staff Relations — states that: "The Secretary-General shall establish and maintain continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies". In opting to use "shall", the General Assembly clearly chose to voluntarily place the organization in a position to find agreed rather than imposed solutions to its labour conflicts. Within the scope defined by Reg. 8.1, (and only within that scope) **such an obligation commits the Secretary-General and management as a**

[54] See chapter V, section F.

[55] Each member may be accompanied by an alternate (ST/SGB/2011/6, para. 3.1 (a) and (b)).

[56] SMCC special session 1982; SMCC VI (paras. 13, 17); SMCC IX (para. 16); SMCC XI (para. 6); SMCC XII (para. 84); SMCC XVI (1996).

whole "to ensure the effective participation of the staff" at each step of the decision-making process on policies affecting staff. Participation should commence during the period of initial diagnosis when the issue is identified and continue until the issue is resolved. Certainly, participation should not be limited to the stage where a ready made product such as a draft ST/SGB or ST/AI is sent to SRBs for approval within a fortnight. To use the language of the ILOAT, **the said Regulation 8.1 made the end-product of the discussions "*a bilateral decision, i.e. an agreement,*" hence, following its reasoning 'negotiation' is appropriate."**

66. The interpretation of **mandatory negotiation** in the defined scope of staff relations via identified Joint Bodies is further justified by the following:

- Historically, most staff rules, ST/SGBs and ST/AIs impacting SMR were issued following **agreements** between SRs and MRs in the SMCC[57], often thanks to the efforts of intra/inter-sessional Working Groups;
- The term "agreement" has always been used within this framework and in the reports made by the SMCC President to the Secretary-General;
- The provision for "negotiations" has regularly featured in all SMCC ToRs since 1983;
- In 2000, the "management, acknowledged the SMCC as "the Secretariat-wide mechanism for negotiation between SRs and the administrations";[58]
- In 2008, management acknowledged that de facto negotiations had governed the procedures applied by the Committee since it resumed its functioning in 2006",[59]
- Some of the recently established joint bodies for discussions on HR policies (and their interpretation) are called Joint Negotiation Committees (JNCs). In some cases, these have replaced Joint Advisory Committees (JACs) in UNHQ (New York, 2007), UNOG (May 2008) and the Field (August 2008). All have defined themselves as "the joint staff-management mechanism for negotiation between representatives of staff and the administration" with their purposes and scope, at the DS concerned, in line with Staff Regulation 8.1. It remains to be seen whether other Offices away from HQ (OAH) and Regional Economic Commissions will follow suit towards formal negotiation committees, for the sake of harmonization;
- The new ToR for the SMC (ST/SGB/2011/6) closes the recurrent discussion by referring to negotiations on six occasions;
- SMCC XXXII worked to reach more formal and specific written "agreements" which would be "numbered" (ex. Agreement No. SMCCXXXII/1) with official symbols (para. 16 of session report); according to the ILOAT Judgment No. 380, agreements are reached after negotiation.

67. It should be clear that, within the United Nations, **negotiation processes do not exclude consultation processes** as negotiation implies preceding processes of mutual information, communication and subsequently consultation. Additionally, within the context of the "joint staff-management machinery at both local and Secretariat-wide"

[57] As illustrated in two of the 25 annexes of SMCC XIV (1990): Ann. XI: Staff position paper: comments on revised chapters I, V, VI and VII of the Staff Rules (SR); Ann. XII: draft amendments to chapter VIII of the SR and ST/SGB/176/Rev.1; other examples include Revision 5 of the 300 Series (1993), the draft ST/AI on membership in advisory bodies and draft ST/AI/293 on Facilities to be provided to SRs.

[58] SMCC XXIV, para. 12.

[59] SMCC XXIX, para. 18.

level,[60] some JBs work to fulfil the function embedded in regulation 8.2 i.e. to advise the Secretary-General (and local management at the duty-station level) regarding HR policies and general questions of staff welfare. A number of boards and committees were or are still called "advisory", including for important functions concerning the procedures for recruitment, placement, promotion and administration of justice. Other existing advisory entities — even though they might not explicitly be termed as such — include those on the management of health and safety, the commissary, catering, parking, etc., where management is clearly expected to consult with SRs in the delivery of such services.

68. To determine whether an interaction process involves consultation or negotiation, the ToR of the JB concerned can be indicative. The implementation process can also be indicative — when implementation is binding upon both sides the process generally involves a negotiated outcome. Where disagreement exists as to the process followed in making a determination — particularly on issues that affect the conditions of service of staff — the issue can be referred to the relevant jurisdiction in charge of the administration of internal justice in an organization to make a determination.

IV. Staff representative bodies (SRBS) and SMR at the local level

69. The staff-at-large across the United Nations Group have established their own representational structures to discuss issues that impact upon them: locally among themselves, organization-wide with other SRBs of the same Federation (see B.3 below) and subsequently with management through joint bodies, foremost among which is the SMCC/SMC. While the top-down functional lines of authority are well known (from legislative bodies to Executive Heads, then to management and finally to the staff-at-large), symmetrical bottom-up processes and spaces for discussion also exist where the staff-at-large elect their SRs for SRBs to advise or negotiate on behalf of the staff with management via forums like JBs including the SMCC.

A. What purposes do staff representative bodies (SRBs) serve?

70. While the scope and effectiveness of the role that SRs at the local level perform can and do vary greatly from one SRB to another, an analysis of the statutes of 19 SRBs of the United Nations Group indicates that their objectives generally encompass: safeguarding the rights, privileges, interests and welfare of all staff members as well as providing other services of use to staff; ensuring their full participation in bodies for which provisions are made; representing all staff by developing common positions on issues that affect them; encouraging staff participation in SRB activities; and furthering cooperation with SRBs in other organizations/entities to promote collective interests.

B. How is the United Nations staff represented and organized?

71. By virtue of the recognized freedom-of-association principle, SRBs show a big diversity in the various United Nations duty stations where they generally go by the terms of either "staff union" (SU) or "staff association,"(SA) which imply no significant

[60] Established as per Staff Regulation 8.2 and subject of Staff Rule 8.2.

differences, except in Geneva where a "staff coordinating council" includes representatives from various groups (see para. 78 below).

72. Throughout the UN Group, regardless of the terminology used, the functions and powers of all SRBs are quite similar and each one is affiliated with one of the following three federations: Federation of International Civil Servants Associations (FICSA); Coordinating Committee for International Staff Unions and Associations of the United Nations system (CCISUA) — the founding members of which (UNSU and UNOG SCC) split from FICSA in 1982; and United Nations Civil Servants Federation (UNISERV), the founders of which split respectively from CCISUA (UNSU) and FICSA (UNDP/UNOPS/UNFPA) in 2007, joined by UNFSU in 2008. The forthcoming JIU report on SMR in the specialized agencies and the Common System will review the major roles of the three staff federations.

B.1 Respective interests of different categories of staff

73. SMR is invariably affected by the differences in concerns and interests of staff, based on many factors including their grade (GS, P, D), duty station,[61] recruitment category (local — international), and contract type arising from differing compensation levels and provisions of entitlements and benefits. Differences also arise depending on whether staff members are based in HQ or away from it, and whether they are based in a modern and well equipped DS compared to a small and isolated DS, since the former enjoy comparative advantages that includes (among others): lesser concerns for safety and security and better access to adequate healthcare and educational facilities. Those working in HQ can add to this list: easier access to senior management and MS delegates, earlier access to information on vacancies and organizational policy changes, etc.

74. Apart from compensation and entitlement differences, interests vary among United Nations Field Staff, depending mostly on whether they are national or international staff, with a corresponding impact upon their career mobility: while the international field staff can move from one mission to another, the careers of national staff are by definition, limited by the duration of one particular mission. Currently, while the Field Staff Union (UNFSU) is adequately representing the international staff from 42 field missions, UNSU (New York) is formally tasked with representing national field staff of those missions but maintains little in the way of regular communication with them in practice. The national field staff share more in common with international field staff — including common concerns (hazardous working conditions, safety and security issues, etc.) and challenges (limited SMR experience due to half of DFS field staff having less than two years of work experience with the United Nations)[62] — than they share with the New York-based staff who are UNSU's primary constituency.

75. In the Inspector's opinion, **national and international field staff could be better served through uniting under the common umbrella of the UNFSU** which could establish sub-committees (by location) to allow for the discussion of issues specific to each category, before they are worked on and reconciled at the committee (local) and/or Council (global) levels. It should be made clear from the start that a united structure should not in any way bring with it attempts to confuse the conditions of service for national staff with international staff, which are clearly differentiated. **The FSU leadership could undertake internal consultations with its own membership, and external consultations with existing SRBs representing the national staff of peace**

[61] HQ, OAH, Regional Economic Commissions and Field, including family and non-family missions.
[62] Quote from the USG of DFS during interview with JIU, November 2010.

operations and special political missions, about a possible institutional arrangement of uniting these structures, with the UNSU facilitating such a move.

B.2 Diverse organizational formulas

76. Within the United Nations Group, of the five SRBs[63] with a global scope not all of them represent their constituent staff members equally, with UNU-SA and UNHCR-SA making no provisions for subsidiary bodies at the field/local level (though field-based focal points and staff representatives exist), and UNHCR-SA even restricting field staff from participating in its executive organ.[64] On the contrary, UNICEF-GSA fully provides for the comprehensive representation of all categories of staff irrespective of duty station. In laying the foundation for the establishment of SRBs via Staff Regulation 8.1, the General Assembly noted that they "shall be organized in such a way as to afford equitable representation of all staff members".[65] In the Inspector's view, it is both essential and beneficial for staff in all duty stations to have equal access to adequate and equitable representational mechanisms. On the other hand, the respective SRBs of UNHQ, each OAH, each regional commission (ECA, ECLAC, ESCAP, ESCWA) and each international criminal tribunal with assessed budget (ICTR, ICTY) represent mainly the staff working in the particular duty station/region concerned.[66] Some of them with regional presence also have provisions for subsidiary and parallel SRBs. Some SRBs are also more flexible with regards to their membership structure, making provisions for associate, affiliate, active and passive members, retired staff and even those with no minimum duration in their contract.

77. In a duty station where a large number of organizations of the United Nations system co-exist, each with its own SRB, these SRBs can come together to form a (local) **Federation of United Nations Staff Associations (FUNSA)** which looks at cross-cutting issues affecting staff (ex. local staff salaries, security, relations with host country, etc.) and deals with Country Management Teams (CMTs) as its management counterpart. In practice, such Federations are either non-existent in most duty stations or they are only at an embryonic stage or work as a mere coordination mechanism in the ones where they do exist. Given their cross-organizational staff representation structure and their ease of access to CMTs, FUNSAs can potentially play a major role among local SRBs to address issues — like common services — that can be resolved at the duty station level quickly and effectively, as per the subsidiarity principle. **Where a FUNSA exists, the EHs should encourage their representatives in the United Nations Country Teams (UNCTs) to undertake regular consultations with such a partner.**

78. UNOG has a unique staff representation[67] structure where various groups — either with or without an established statute — participate as "lists" in annual elections to constitute through proportional representation the UNOG Staff Coordinating Council

[63] UNICEF Global Staff Association (UNICEF-GSA), UN University Staff Council (UNU-SC), UNHCR Staff Association (UNHCR-SA), UNDP/UNFPA/UNOPS Staff Association (UNPD/UNFPA/UNOPS SA) and UN Field Staff Union (UN-FSU).

[64] Field unit SRs of UNHCR-SA can present a list of problems to the Staff Council but cannot sit in on it; UNHCR-SA's workplan is determined exclusively by SRs based in Geneva despite the majority of staff being field-based; interests of staff in UNU's smaller duty stations (fewer than 10 staff) are represented by SRs based in Tokyo. On the other hand and as should be common practice, the Chair of the Unit Staff Committee (which serves as the Executive SRB in each field mission) serves as a member of the UNFSU Council.

[65] ST/SGB/2010/6: Staff Regulations of the UN and provisional Staff Rules (2 September 2010).

[66] UNOV-SU also represents UNICRI and UNODC field offices with SRs elected from the field.

[67] See "Regulations on representation of the staff of the United Nations at Geneva".

(SCC) where they co-exist as per the Regulations on Representation of the Staff of the United Nations at Geneva (January 1983). Similar to other SRBs, the SCC is considered by UNOG Administration as the sole interlocutor for UNOG staff. Instead of voting to elect a staff member to a particular position, staff members at UNOG vote for an entire group list, with five groups competing in annual elections to the UNOG-SCC in 2011. Everywhere, in responding to the JIU's questionnaires, both SRs and MRs cautioned against the proliferation of SRBs as counter-productive as it may lead to a situation of "too many cooks spoiling the broth" and unnecessary, divisive competition within the staff.[68]

B.3 Internal structure and procedures of SRBs

79. Presently, most SRBs are organized at three levels, the generic terms for which are used in this report. The first level is composed of the staff-at-large i.e. "electors." The second level is a "Staff Council" which comprises of representatives elected by the staff-at-large to serve for a specific term (usually two years). The third level is a "Bureau" which usually comprises of a small group of representatives elected by the Council members from among themselves. This three-tiered structure is followed by most SRBs, albeit with some variations.

80. The Staff Council, as the directly elected organ implements the decisions of the plenary by orienting the tasks of the Bureau. It represents the staff-at-large on matters concerning HR policies and staff welfare and can establish subsidiary committees as well as "ad hoc" working groups. It also appoints representatives to management Committees and Statutory bodies and nominates candidates to JBs. The size of a Council can vary significantly according to the total staff population of an entity and some have provisions for representation of all staff categories[69] — a good practice to prevent the SRB from being dominated by a single category of staff. Certain SRBs have provisions for by-elections if the number of elected Council members fails to reach or falls below a certain minimum number — a positive incentive for SRBs to seek candidates with a demonstrated commitment to staff representational work. A few SRBs also make provisions for the Council to be dissolved through recalls/no-confidence motions/simple majority votes — all good practices to further SRB accountability.

81. The Bureau is a small executive group elected by a Council from among its members to implement the directives of the Council. It conducts discussions and negotiations with the organization's management on issues in pursuance of the objectives and work programme of the Council (in accordance with established priorities) and can undertake discussions with other SRBs and the Federation of SRBs to which it belongs, as directed by the Council. It effectively serves as the Council's eyes and ears, following-up on what's happening at various levels of management and preparing corresponding reactions. It manages the SRB's budget and its day-to-day administration (guiding the work of the SRB Secretariat's support staff), informs and communicates with the staff-at-large. A typical Bureau has three to seven members, with provisions for dissolution if minimum membership numbers are not met.

---

[68] It may be noted that UNOG-SCC funds its activities mainly through proceeds from the staff-run commissary, arguably diminishing any motivation for them to collect any dues from the staff-at-large.

[69] ESCWA-SA Council: equal number of P & GS staff; ECLAC-SSA Council: number of P & GS staff proportional to their membership; UNU-SU Council: equal number of academic and administrative staff.

82. While established quorums for different types of SRB meetings exist including for (annual) General Assemblies or meetings, loopholes in certain SRB statutes allow for meetings to be conducted and decisions adopted, even in the absence of a majority of the elected members. Such loopholes must be closed by the SRBs as SRs should respect their representational duties towards their constituents. Should SRs fail to attend Council or Bureau meetings on a regular basis, **SRBs could consider strengthening the democratic principle of the majority rule within their statutes to address such situations.**

B.4 Democratic participation in SRB elections to a Council

83. Staff councils in the United Nations Group, elected via secret ballot, have varying levels of **inclusiveness**: (a) global SRBs that allow for membership for all staff from all duty stations of an organization (e.g. UNICEF); (b) local/regional SRBs (as within the United Nations) that restrict membership to staff from a particular duty station, region or sub-region (e.g. OAH, Regional Economic Commissions); and (c) SRBs that limit membership strictly to staff members in a certain job category (e.g. UNFSU). In all cases, **the SRB has to represent (without discrimination) the interests of all staff members who are defined as being represented in the statute of the SRB concerned.** In this context, it should be kept in mind that as long as the whole United Nations staff will not directly elect a SRB at the level of the entire Secretariat (and/or Group), on the model of total inclusiveness, **a coordination mechanism remains to be conceived and established by the current nine SRBs to give one uncontested voice to the Staff of the United Nations Secretariat (and Group).**

84. Unrestricted participation in Staff Council elections by the staff-at-large is a standard feature across the United Nations. Implementing this principle is done in a couple of different ways in practice. One practice is to allow all staff members with the automatic entitlement to vote (as in UNOG-SCC and UNSU). The other practice sees the SRB limiting the right to vote to its own members or to members who have paid their dues (for a reasonable fee); in such cases, registration and the payment of dues should be fully open to all staff members without any other preconditions. The Inspector sees merit in this latter option which can strengthen staff solidarity, even though this view differs from an OLA legal opinion stating that SRBs "must extend membership and related rights to all staff members irrespective of whether they pay membership dues".[70] In most cases the payment of dues via is made through direct payroll deductions — following a voluntary opt-in by the staff member when appointed with the right to withdraw at any time — is broadly assessed in one of these three ways: (a) flat fee; (b) percentage of salary; and (c) progressive with income.

85. Regulation 8.1 establishes that SRBs "*shall be organized in such a way as to afford equitable representation to all staff members*". Subsequently, to mitigate the risk of unequal treatment, some SRB statutes stipulate that certain key elected posts be reserved for candidates from specific categories. In SRBs where no provisions are made to ensure representation from different categories, staff members have expressed concerns about their interests not being adequately addressed by representatives who may pertain exclusively to another staff category. Four SRBs[71] utilize electoral units to constitute their councils, whereby the views of staff pertaining to an electoral unit (specific job category or department) are represented in the Council via a representative

[70] UN *Juridical Yearbook*, 2008, pp. 449-453.

[71] Electoral Units: UNICTR-SU, UNON-SU, UNOV-SU and UNSU.

elected from among their own.[72] While this can serve as a good practice of democratic representation as in ICTY-SU, a high proportion of uncontested/vacant seats for unit representative posts (as was the case in the forty-third UNSU SC) had lead management to question the representativeness of such SRBs. The high vacancy rates may also be indicative of either disinterest among the staff-at-large or a general fear of reprisal by management for engaging in staff representational work, or a combination of both, an issue often raised by SRs during interviews with the JIU team.

86. Elections to a Council take place on an annual (Geneva) or biennial basis (most SRBs) in conformity with Staff Regulation 8.1 which calls for elections to be held "at least biennially". Several SRBs (including the UNOG-SC) have rightly questioned the merit of annual elections, noting that such frequent turnovers result in a loss of time (needed by newly elected SRs to familiarize themselves), resources (organizing elections, training new SRs) and energy (in competitions). A standard two-year term would grant a Council a more efficient and realistic time-frame to deliver on its work-plans, but any change in this respect should be made by the SRBs concerned in accordance with their own statutes. By stipulating that only half (e.g. 5-6 out of 11) of all positions be up for elections each year, UNDP-UNFPA-UNOPS-SA avoids the scenario where an entirely new Council gets elected with no one having any prior experience in staff representation — which is a good practice.

Guideline 1: The staff representative bodies (SRBs) should consider two years as the standard term for elected members of staff councils.

87. While some SRBs place no limits on the number of times a person can run for elections, others outline provisions limiting an elected SR to a maximum number of consecutive terms, following which he/she must complete one full-term break in staff representation to become re-eligible to compete in future elections.[73] While any decision to impose term limits lies exclusively with the SRB concerned, the notion has both its pros and cons. On the plus side, it can it help to avoid the creation of "career staff representatives", serve as an incentive for injecting fresh blood/ideas/experience into SMR. On the other hand, it can also limit the benefits which can be drawn from a seasoned SR, in particular when negotiating with professional HR specialists, who themselves have often bypassed any mobility requirements. **The Inspector believes that the issue of term limits is worthy of discussion within SRBs through free, frank and respectful dialogue.**

[72] While electoral units at UNSU are based on UNHQ's departmental structures and on the need to maintain parity in population numbers per unit (150-200 staff member per unit), UNICTR-SU's three electoral units are categorized as Professional, Field Service and General Service staff.

[73] Term limits in UNSU are as follows: Council (six years), Bureau (four years).

Table 2
Staff participation in SRB elections

SRB	*Electoral cycle*	*Date of last elections*	*Electoral population*[a]	*Effective voting population*[b]	*% Voting*
UNSU	Biennial	June 2011	6 325	1 841	29%
UNOG-SCC	Annual	March 2011	3 465	810	23%
UNOV-SU	Biennial	May 2010	1 200 (436 in 2 electoral units holding elections	303 (in 2 electoral units holding elections)	69%
UNON-SU	Biennial	November 2009	2 495	1 026	41%
ESCAP-SA	Biennial	September 2010	427	234	55%
UNICEF-GSA	Annual	April 2011	10 700	4 824	45%
UNRWA-ASU	Triennial	March 2010	24 679	21 062	85%
UNFSU[c]	Biennial	June 2010	7 250	No voting (one unopposed list)	
UNU-SC	Biennial	2009	727	Reappointed unopposed[d]	

Note:
[a] Number of staff members having the right to vote.
[b] Number of staff members having voted.
[c] While candidates were re-elected unopposed, democratic procedures are well and alive in FSU with a new constitution being adopted via a referendum in June 2010 by 1,399 out of 1,575 voters (88.8 per cent).
[d] Number of candidates were the same as the number of positions up for elections.

C. Perceptions on staff representational role in SMR

88. Those not directly involved in SMR may have views on staff representatives shaped by their own cultural and political background regarding trade unions in general. Views on SRs tend to be quite strong due to a number of factors: (a) elected to officially perform public functions, the role of a SR is often (inaccurately) associated with that of a politician; (b) their image suffers from cases where a staff member feeling professionally vulnerable attempt to become a SR, wrongly thinking that such status would protect him/her; (c) in various DS most among the staff-at-large have little or no contact with their SRs; and (d) the fact that most SRs are not highly-placed in the organizational hierarchy (a good proportion are GS staff) does not help their credibility, in a corporate culture where seniority and rank are often implicitly associated with competency. Indeed, in the UN Group, except in exceptional cases, few in the highest grades of the Professional category and above seem to perceive a role for themselves in SRBs, contrary to some other organizations of the UN system. Paradoxically, managers with prior experience in industrial relations in the private sector tend to be more open to SRs than counterparts who had spent the entirety of their careers in the public service (national and/or international).

A serious challenge to effective representation: the case of the UNRWA Area Staff

Due to UNRWA's unique context and the nature of its mandate to provide quasi-governmental services (education, health and relief/social services) to Palestinian refugees. The Inspector agrees with the ICSC which stated that "the legal status of UNRWA area staff was complex and equivocal".[74] The workforce consists of two categories of staff who are subject to separate Staff Regulations and Rules and terms of employment. For the international staff numbering about 200, more than half the funding is provided by the United Nations. These relatively few international staff are subject to the UN system's terms of employment and have a separate staff association. For the nearly 30,000 local staff who are subject to UNRWA Area Staff Regulations and Rules and whose salaries are aligned to those of the host governments, the Agency relies entirely on voluntary donor funding.

The local staff are organized into seven unions at five duty stations, which contributes to the complexity of UNRWA's SMR. Tensions and disagreements with local staff unions are regular and are most often related to salaries and other benefits. In the absence of formal conflict resolution mechanisms, disagreements regularly result in industrial action. Significant disparities in the contractual status and associated conditions of service for national and international staff has created rifts between them, adding further complexity to the resolution of differences between local staff and management.

The Inspector is convinced that the level of tension -- including direct action via strikes — and the complexity of the political and technical aspects at stake are such that bold initiatives are required to resolve them, taking into account a full analysis of the legal, institutional, political, historic, economic, financial, social, and psychological dimensions. These undertakings should be conducted with the participation of staff and MRs in each of the five main duty stations of UNRWA, and the resulting observations, conclusions and recommendations should be transparently shared with all actors including the host-entities and the MS participating in UNRWA's Advisory Commission.

In this context it should be noted that in 2009, UNRWA contracted an external consultant to review SMR in the Agency and has additionally sought expert advice from the ILO on multiple occasions. The Inspector appreciates the launching of UNRWA's Joint SMR workshop and encourages the Agency to pursue the implementation of positive recommendations and to continue to seek external and independent support. The adoption of General Assembly resolution 65/272 on strengthening UNRWA's management capacity should serve as a catalyst for the Agency, its donors, and the United Nations Secretariat to resolve some of its major funding challenges.

[74] ICSC report A/57/30, para. 122.

C.1 Relationship between staff-at-large and staff representatives

89. Furthering relations between the staff-at-large and SRBs necessitates ensuring and advancing transparency and effectiveness in their day-to-day operations. The factors determining such a relationship include, inter alia: outreach efforts by SRBs (ex. broadcast messages, social events), participation in SRB meetings/elections and JBs, the way in which the opinions of newcomers are taken into account by SRBs. In some of the larger duty stations, concerns were raised on both sides with regards to the competence of some SRs in performing their roles. It is important to note that two basic principles regarding staff representation are often overlooked in various quarters:

(b) **SR functions are official** and SRs are staff members of the United Nations (General Assembly resolution 51/226[75]). Despite this acknowledgement, SRs have noted that their performance assessments do not incorporate staff representational roles performed. This practice is particularly damaging for SRB Chairs on full-time release whose performance assessments remain virtually empty. As a matter of principle, performing staff representational roles should neither hinder nor accelerate the professional career of any SR.

(b) **SR functions are benevolent**. In addition to not being compensated, most SRs must balance their staff representational tasks with their post-related professional assignments, often requiring them to invest their own personal time to meet their respective obligations, a constraint that is often overlooked by their direct supervisors. Good-faith relations between SRBs and management, including (but not limited to) the frequency of formal and informal contacts can and does influence the success of SRBs. Where staff representation is perceived as ineffective, it can often be attributed to SRs not being adequately integrated into decision-making processes affecting the staff-at-large.

90. As regards the issue of representativeness, the only requirement based on United Nations legal texts is that the SRBs should be organized in a way that will ensure "effective and equitable representation of all staff members" (Reg. 8.1b). Some MRs raised the question of a threshold for representativeness, highlighting low turnouts in Staff Council elections, as diminishing the legitimacy of elected representatives, which also raised the question of "whom exactly was the Staff Council representing?" Having no staff representation at all due to such a threshold would certainly not be a solution for improving SMR. SRBs should (continue to) give due consideration to the following guideline which is expected to enhance the accountability of staff representation.

Guideline 2: Representativeness

Staff representative bodies should ensure that the views of staff-at-large are adequately represented by effectively informing and consulting with them, prior to and after engaging in negotiations with the administration on issues that impact staff welfare.

D. Perceptions on the role of management in SMR

91. While some managers acknowledged SMR both as a part of their professional responsibilities and the organizations' established policy, others were generally unconvinced of its importance. In spite of the General Assembly recognizing the tasks of SRs as official, some managers, particularly in some peacekeeping operations simply

[75] General Assembly resolution 51/226, paras. 10 and 11.

choose to ignore it, contradicting article 23 of the UDHR, General Assembly resolution 128 (II) and the Standards of Conduct in International Civil Service. According to a number of SRs interviewed, some MRs were holding consultations with staff more as a formal requirement, without any expectation of attaining a positive outcome from the process.

92. It should be reminded that Staff Rule 8.1(f) entitles SRs to both effectively participate in identifying/examining/resolving issues related to staff welfare and make proposals to the Secretary-General on behalf of the staff. In addition, Staff Rule 8.1(h) states that **instruction/directives related to staff welfare should be transmitted to SRBs in advance** for consideration/comments (exception for emergency situations) before being placed into effect. This excludes the use of emails to inform SRBs about such instructions/directives, except if accompanied by an invitation to discuss the proposed text within an accepted Joint negotiation Body or framework and with an agreed minimum lead-time.

93. **ST/SGB/274 clearly outlines issues subject to consultation at the departmental/office level** including: (a) staff welfare matters and ways/means to improve them (via regulations/rules/policies); application of Staff Rules under Secretary-General's delegated authority to departmental/office heads and their implementation of policies/recommendations approved by Secretary-General that impact upon staff; and (b) the resolution of problems/crises at the local level.

E. Protection of staff representatives

94. In practice, in entities where knowledge and implementation of, and compliance with these texts by management are lacking, **SRs have expressed fears of retaliation in their career aspirations** due to their representative functions, a fear also reported in some SMCC sessions. Normally, **wherever whistleblower policies exist, they should also benefit to SRs, particularly when any evidence of threats and/or acts against the official and protected functions of elected SRs are found**. As per the formal texts of the United Nations, SRs "have the same rights, duties, obligations and privileges as all staff members" and ought to "enjoy protection against any discrimination, treatment or prejudicial action based on their status or activities as staff representatives."[76]

95. The careers of staff representatives should not be negatively affected by their active or passive role in a SRB[77] and "it is an indispensable element of the right of association that no action should be taken against a member of the staff on the ground that he is or has been an officer or representative of the Staff Association or otherwise has been active in the Association".[78] They should be entitled to due protection when negotiating with management, which in turn should be restricted from resorting to disciplinary measures or exerting pressure on SRs, except in circumstances where the SRB's actions may impair the dignity of the international civil service.[79] SRs also enjoy "special rights that include broad freedom of speech and the right to take to task the administration of the organization whose employees it represents".[80] However, such protection should not excuse any misconduct.

[76] ST/AI/293 & UNAT Judgment No. 15 (1952).
[77] UNAT Judgment No. 924 (1999).
[78] UNAT, Judgment No. 15, *Robinson* (1952).
[79] ILOAT, Judgment No. 349 (1978) & ILOAT, Judgment No. 911, at consideration 8 (1988).
[80] ILOAT, Judgment No. 911, consideration 8 (1988).

F. Communication within and among SRBs

96. Regular and uncensored communication within/among SRBs is essential for effective staff representation. Both effective communication within a large SRB and coordination among SRBs face challenges, with the latter limited primarily to federation congresses and annual SMCC sessions. The incidences of management requiring prior authorization for SRBs to use broadcast facilities was raised and condemned by SMCC XVIII (1994) as such actions violate the spirit and provisions of ST/AI/293. The ILOAT has stated in this regard that "freedom of association is destroyed if communication between members is permitted only under supervision. A restriction, which would be unjustified if imposed on speech or letters or any other means of communication which the Association found for itself, does not become justified when the means are provided by the Administration".[81]

97. In accordance with the principles of freedom of association, all organizations should, as most of them already do, permit SRBs the use of its intranet and broadcast system without censorship or prior authorization. Such a principle was recently applied to I-seek by the UNOG SCC[82] and "it was agreed that ST/AI/293 on facilities to be provided to SRs would be updated to include provisions related to mass communication tools and broadcast facilities, taking into account local conditions and capacities".[83] While some or all of these channels exist in practice in the United Nations Group entities,[84] the effectiveness and transparency of these means are yet to be fully assessed, with the staff side expressing concern on discriminatory access to communication tools. The implementation of the following recommendation is expected to further cooperation and coordination between SRBs and the staff-at-large.

Recommendation 2

The Secretary-General and the Executive Heads of the separately administered organs and programmes, acknowledging the official status of Staff Representative Bodies and elected staff representatives, should facilitate their access to all available and necessary means of communication with the staff-at-large, as agreed in SMCC XXXII (2011).

98. While web-based tools constitute the most practical and cost-efficient means to communicate with staff-at-large, in practice, only a handful of SRBs have their own website. Information and dissemination are generally done through broadcast messages. In their statutes, few SRBs have explicit provisions in place to disseminate Bureau/Council meeting minutes to staff-at-large. In the Inspector's opinion, what is discussed and decided upon within the various layers of SRBs should be relayed promptly to the staff-at-large and what is committed to should be upheld. In this regard, the implementation of the following guideline is expected to enhance the transparency and accountability of SRBs.

---

[81] ILOAT, Judgment No. 496, at consideration 37 (1982).

[82] Harmonizing procedures for broadcasts, SMCC XXXII, Annex III, Appendix 17.

[83] Report SMCC XXXII, para. 78. Agreement No. SMCC-XXXII/12, which states: "Staff and OHRM would discuss issues related to access to i-seek and IT support with OICT and DPI respectively."

[84] For example, the Departments of Management and of Public Information have jointly contributed to the presence of SRB news on the U.N. intranet (I-seek).

Guideline 3: Communication and transparency to staff-at-large

Staff Representative Bodies (SRBs) who have not already done so are invited to consider including in their respective statutes provisions ensuring that the records of Bureau meetings be circulated to all SRB members and those of Council meetings circulated to the staff-at-large in the specific working language(s) of the duty station, no later than 10 working days following the completion of the meeting, and to monitor and report on compliance in this regard.

G. Communication by management

99. In addition to its contacts with SRs, management communicates with staff-at-large through a variety of communication channels including: divisional and departmental meetings, JB meetings, written communication (ex. ST/SGBs, ST/AIs, internal memos) and ICT tools (intranet, blogs, social media). In recent years, management has increasingly used Town Hall meetings to directly inform staff-at-large, including on decisions taken by the MS. Town Hall meetings can be beneficial to SMR as long as the information to be shared reflects decisions that have been worked on jointly between SRs and MRs and that staff-at-large are allowed to pose genuine questions directly to the SG or other officials holding townhall meetings without having them filtered ex-ante by any manager.

100. The use of petitions, demonstrations and even strikes — the latter as a last resort when other means of reaching agreement have failed or as a pressure tactic to extract certain concessions — represent uncommon practices for SRBs[85] at the United Nations. Exceptions include a significant demonstration on 6 December 1991 around the UNHQ courtyard in New York. Apart from UNRWA where strikes are endemic (ex. a strike in Oct./Nov. 2010 involving 5,000 area staff lasted 35 days) there have generally not been work stoppages of any great length, with one notable exception of a strike at UNOG from 25 February-2 March 1976; a subsequent JIU report (JIU/REP/1976/6) on the incident highlighted that over and above a crisis in communication, there existed a crisis of confidence, with the "evident absence of any real dialogue based on understanding and mutual trust between the heads of the Office and their staff", apparently the same challenges behind the current SMR crisis at UNRWA.

V. Local staff-management relations: practices and means

A. Quality of the local SMR

101. Ensuring sufficient channels for dialogue between MRs and SRs at the local level is instrumental for constructive SMR. While no "one-size-fits-all" pattern of relationship is applicable across the United Nations Group, both sides often highlighted the lack of a reliable/entrusting working environment, with SRs additionally noting that the consultative processes in which they participated remained formal. The prevalence of active/constructive joint SM bodies serves as a good indicator that SMR in a particular duty station is working well. Provisions for joint bodies came about through Staff Regulation 8.2 which calls for their establishment to provide the Secretary-General with advice on HR policies and staff welfare questions. It stipulates parity in composition

[85] Strikes are permissible as per the statutes of UNOG-SCC and ECLAC-SSA. The staff rules are silent on this subject.

(SRs=MRs) as essential for a credible joint body, whose chair must be selected by the Secretary-General from a list proposed by SRs.

102. From his many contacts, direct observations and interviews, the Inspector concluded that SMR were often disrupted by biased perceptions and personality conflicts, jeopardizing the fairness of the processes at stake and resulting in a loss of mutual trust. In addition to establishing mutual respect, **other requisites for constructive SMR include the development of informal contacts and the ease of access to senior management**, where the tone is set by the Executive Head. Positive SMR based on participatory and open dialogue conducted in good faith necessitates — as a first step — that SRs and MRs clarify internally among themselves their own respective positions, such that they arrive at the discussion table with a unified voice on each side.

B. Different types of joint bodies

103. Joint Advisory Committees (JACs) were traditionally the most prevalent, providing advice/recommendations to the Secretary-General on staff welfare issues in a given duty station or in the field in general. In recent years, Joint Negotiating Committees (JNCs) replaced JACs in three DSs (UNHQ,[86] UNOG,[87] UNECA) and in the field (FJNC[88]) — representing a significant evolution from their predecessors. Their respective purposes are the same: "As the joint staff-management mechanism for negotiation in good faith between representatives of staff and the administration, the Committee shall identify, examine and resolve issues through mutual agreements relating to staff welfare, including conditions of employment and of work, general conditions of life and other personnel policies, as provided for in staff regulation 8.1(a)".

104. **The Inspector is of the view that the management and SRBs of all entities within the UN Group should strive to ensure that all staff members, irrespective of duty station and categories, have their concerns represented in Joint Negotiation Bodies. On an annual basis the reports of the joint bodies should be jointly communicated to Member States and the staff-at-large located in their respective areas of competence on the status of implementations of agreements previously reached in the joint bodies.**

105. A second type of joint body is targeted towards **advising the Secretary-General** (the management in effect) **on more individual issues**: recruitment and promotion, for the Central Review Bodies (committees and panels) established in various duty stations,[89] Classification Appeals Committees (GS/FS/P categories) and Voluntary Separation Panels. **A third type of JBs focuses on the management of services and facilities that are specific to a particular duty station** and include among others: committees for catering, garage operations, commissary, crèche, local transport, Staff Benevolent Funds etc. **The role performed by staff in such bodies is largely advisory.**

106. The major reform of the internal justice system of the United Nations, mandated to resolve staff-management disputes,[90] was aiming at making it more independent, professional and decentralized[91]. To those ends, joint bodies like the Joint Appeals

[86] ST/SGB/2007/9, JNC at HQ.
[87] ST/IC/Geneva/2008/18.
[88] ST/SGB/2008/11, JNC for the Field.
[89] See ST/SGB/2002/6 and ST/AI/2006/3.
[90] At the Secretariat-level, the SMCC participated actively in the AoJ reform process since 2001.
[91] See A/RES/61/261, Administration of Justice at the United Nations.

Board (JAB) and the Joint Disciplinary Committee (JDC) have been replaced by the United Nations Dispute Tribunal (UNDT) comprising of professional judges. SRs can still play a significant role by participating in the Internal Justice Council,[92] a joint body which provides the General Assembly with recommendations on candidates for judges to UNDT and UNAT (United Nations Appeals Tribunal), gives it views on the implementation of the new system of AoJ and prepares the Code of Conduct for judges. SRs can also file a friend-of-the-court brief before the UNDT and UNAT in support of a staff member's complaint (with the judge's permission). However, despite the aforementioned reforms, several challenges remain: SRs noted that OSLA had a physical presence in only five duty stations, even though management everywhere in the United Nations system had access to legal advisers. In duty stations without an OSLA presence, staff had to rely on the assistance of SRs who had little or no legal background/knowledge.

C. Relations between management and joint bodies

107. While both SRs and MRs agreed in principle that joint bodies were a plus as mechanisms for good faith and meaningful consultations for SMR, joint bodies alone cannot guarantee positive SMR. Various mitigating factors limit the effectiveness of local joint bodies, (including the SMCC) that for some SRs interviewed included: the lack of follow-up on agreements/recommendations, JB recommendations often ignored by management, MRs frequently absent from joint body meetings or not taking part in proposing/setting the agenda and occasionally, personality clashes. SRs often faced a "fait accompli" situation where their comments were sought with very short notice or after management had already finalized a text. JB meetings were thus often perceived as sounding boards rather than forms for constructive dialogue to resolve issues.

108. Several MRs interviewed continued to perceive **all** JBs as purely advisory: SR positions could be accommodated as long as they were within the overall interests of the organization. In their view, the effectiveness of JACs was limited by the unprofessional approach of some SRs who were inappropriately utilizing them to raise individual concerns rather than issues concerning the staff-at-large. Some MRs at the local level also felt unfairly targeted when SRs criticized them for decisions taken unilaterally by HQ-level management (similar to HQ management being criticized for decisions taken by MS). MRs also called for flexibility in discussion mechanisms to take into consideration unique socio-cultural aspects of each DS.

109. Despite the aforementioned limitations, positive examples of joint bodies furthering SMR do exist. In UNICEF's Joint Consultative Committee (JCC), all agreements arrived at are mutually binding, recorded and shared with all staff. JBs can also serve to mitigate tensions as in UNICTR, where, with the mandate of the Tribunal coming to a close, a Joint Staff Retention Committee was established (2008) to meet with each division to determine who was going to be laid off and who was going to be retained longer. Similarly, when downsizing in UNODC and the off-shoring of certain functions at UNU took place, the criteria for such actions were discussed in advance with SRs in an attempt to minimize their negative impact on staff. In UNHCR, the JAC reached an important agreement whereby management could not adopt any procedures without first outlining a clear policy on the issue.

[92] See ST/SGB/2010/3, Organization and terms of reference of the Office of the Administration of Justice.

D. Facilities and time release for staff representation

110. Access to facilities and release, vital for SRs and SRBs to adequately and effectively perform the official roles assigned to them by the Staff Regulations and Rules is guaranteed by ST/AI/293 (1982) which stipulates that they shall be afforded such facilities as may be required to enable them to carry out their functions promptly and efficiently and outlines the following facilities that they can avail of: space for holding meetings; provision of secretarial assistance; facilities for reproduction and distribution of notices, bulletins and other documents; right to have notices or bulletins posted at spaces or on bulletin boards; and use of telephone and cable and communication facilities.

111. As per ST/AI/293, SRs should be granted reasonable official time release (including reasonable travel time) to attend the meetings where they have a formal role to perform. During the 19th SMCC (1995), the Committee agreed to set up a joint SM task force to define representational activities and the time required to carry them out, the recommendations of which were taken on board by the Secretary-General in issuing report A/C.5/50/64 defining "reasonable time for staff representational activities" (see table below). Time-release for SRs was implicitly acknowledged by the General Assembly through its decision to limit the continuous release of elected SRs (full or part-time) to a maximum of four years (A/RES/51/226). In the opinion of the Inspector, apart from total population numbers represented, determining release should also factor in the number of duty stations represented by the same SRB.[93]

Table 3
Official release formula agreed at SMCC for specific Duty Stations (A/C.5/50/64)

Category of Staff Representative	*Less than 1,000 staff represented***	*Range of 1,000 staff represented**	*Geneva*	*New York*
President/Chairman/ Executive Secretary	60% release (96 hrs/m.)	Full-time (FT) release	FT release	FT release
1st & 2nd VP/Deputy Executive Secretary	30% release (48 hrs/m.)	60% release (96 hrs/m.)	FT release	FT release
Other ExCom members	16 hrs/m.	32 hrs/m.	32 hrs/m.	44 hrs/m.
Staff Council members	10 hrs/m.		10 hrs/m.	15 hrs/m.
Field mission SRs	5 hrs/m.			

* Vienna.
** Addis Ababa, Bangkok, Amman, Jerusalem/Field Service, Nairobi, Santiago.

112. The aforementioned instructions were issued at a time when only HQ and UNOG were adhering to release based on the "the range of 1,000 staff represented". In practice, according to SRs, they are either ignored or improperly adhered to by management in many entities (an issue that has been regularly raised in several SMCC sessions), as some SRB Heads receive no time-release (UNU-SC, UNICTR-SU). Due consideration should be given to the unique circumstances facing SRs in each organization, particularly those in smaller ones where they are at best usually entitled to only part-time release and thus need to balance their professional and staff representational duties, with the quality of

[93] The issue of time release for federations will be addressed in the forthcoming JIU report on SMR in the United Nations Specialized Agencies and the Common System. Both issues are interrelated.

both often suffering as a consequence. Where no time-release is permitted, SRs often have to utilize regular office time to perform staff representational work and subsequently complete their official work during personal time. Such a situation contradicts the General Assembly's assertion that the functions of SRs are official.

113. In the same vein, while some SRBs are provided with a full-time administrative assistant paid for by the organization (UNOG-SCC, UNON-SU, ECLAC-SSA), others receive no such support (UNICTR). Some SRBs do pay for support staff out of their own budget, but management should not use this as a precedent to deny secretarial assistance to SRBs, particularly given the fact that such a provision is stipulated in ST/AI/293, and keeping in mind that the budget of small SRBs is usually too limited to pay for support staff. The review revealed the absence of any concrete criteria to determine what constitutes reasonable needs for adequate office space, leaving the decision to the goodwill of local management.

114. As per their statutes, SRBs present their independently audited accounts, typically during their annual general assembly. SRBs funds are used go towards the provision of services to their constituents (legal counsel, kindergarten, sport and entertainment, charities, training, travel to some meetings, outreach). Clear guidelines should be established for determining the funding of travel and DSA for members and alternates of SRBs to major meetings, including the SMC and the annual general assembly of their respective Federations. Taking into account the significant growth in staff numbers in United Nations entities since the issuance of ST/AI/293 (1982), as well as some of its acknowledged omissions, the implementation of the following recommendation is expected to enhance the effectiveness of staff representation.

Recommendation 3

Once an agreement has been reached in the SMC on fair and harmonized criteria for determining facilities and release for performing staff representation functions, the Secretary-General and the Executive Heads of the separately administered organs should issue revised administrative issuances in this regard; until then, ST/AI/293 and A/C.5/50/64, should be fully implemented and considered as minimal provisions.

E. Staff and management training in SMR

115. **One of the clearest findings of the review is the near-unanimous agreement on the necessity to develop and implement dedicated and complementary training on SMR issues for both SRs and MRs, including newly appointed line managers.** While the provision of such trainings has obvious implications in terms of educational programmes, materials and trainers, the benefits should outweigh the costs: increased professionalism on both sides on SMR processes, combined with a better understanding of each other's substantive concerns would result in an improved scope for resolving differences constructively and **significantly reduce costs, time and energy potentially lost in litigation.** During interviews, both sides highlighted areas in which training would be useful, including negotiation skills and better understanding of key issues, such as staff rules and regulations, HR policies, and codes of conduct. It should be noted that a significant number of interviewees on both sides were open to joint training sessions.

116. HRM and the SRs also commissioned in 2006 some training material used in the special session of SMCC in 2007. In developing a training kit, UNICEF's training modules on SMR issues and the FICSA Handbook on norms of representation could be drawn upon[94] as well as the General Federation of Trade Unions' (GFTU) resource book on negotiating and influencing skills, utilized by some SRBs at CCISUA like ICTY. Training could take the form of both on-site training and on-line modules with both separate and combined sessions for SRs and MRs.

117. The need for training on SMR issues has also featured regularly in various SMCC sessions, including a recommendation for mandatory "people management" training for all managers (2001) and an agreement[95] on establishing a dedicated training programme for SRs (2007) which incorporates a three-day basic programme for all SRs and a two-day programme for executive members of staff committees. At SMCC XXXII (June 2011) it was agreed that the working group on training of SRs would be reconstituted and would continue its work, the results of which would be presented at the next SMC (Agreement No. SMCC-XXXII/14). The implementation of the following recommendation is expected to enhance coordination and cooperation among SRs and MRs.

Recommendation 4

The Secretary-General and the Executive Heads of the separately administered organs and programmes should allot appropriate resources to their respective human resources units to develop (preferably jointly with staff representatives) and implement training activities on SMR-related issues and strongly encourage the participation of newly appointed managers and newly elected staff representatives in such training.

VI. basic principles and texts on SMR

A. Independence of international civil servants

118. In establishing the United Nations in 1945, pre-existing models of the international civil service, including HR and SMR policies and practices, were adopted from the League of Nations, the ILO Secretariat and the Foreign Service of countries such as the United States of America and the United Kingdom. The concept of the modern international civil service as independent from any particular State is derived from the vision of Sir James Eric Drummond, the first Secretary of the League of Nations and embedded in the Balfour Report (1920), which noted that the staff members of the League Secretariat, once appointed, were no longer the servants of the country of which they were citizens, but servants of the League and ought to be provided with a lasting or at least a stable position. Accordingly, United Nations staff members are remunerated

[94] See also *Practical industrial relations in the UN system. Negotiating and influencing skills resource book* (ICTY with the General Federation of Trade Unions (GFTU), April 2011).

[95] SMCC-XXVIII report, annex III, Appendix 6 (proposal by ICTY-SU).

primarily on the basis of the Noblemaire[96] and Flemming principles,[97] ensuring respectively that Professional (P) staff receive salaries comparable to the most highly compensated national civil servants globally, while General Service (GS) staff receive salaries comparable to the best prevailing local rates. The first Staff Regulations,[98] staff union, joint bodies and Administrative Tribunal to exist in an international organization were all established by the ILO in the 1920s.

119. The foundational treaty of the United Nations, the Charter of the United Nations, outlines four vital principles applicable to all staff members of the organization: (a) conformity with the principles of justice and international law (Art. 1); (b) promotion of universal respect for, and observance of human rights and fundamental freedoms for all (Art. 55); (c) The exclusively international character of United Nations staff (Art. 100) and (d) paramount consideration in the employment of staff of adherence to the highest standards of efficiency, competence, and integrity as (Art. 101.3). Subsequently, the Organization's staff, in pledging to uphold the Charter, should also have their human rights and fundamental freedoms upheld and receive due protection enshrined under international law.

B. Rule of law

120. Respect for the rule of law conditions the observance of all other principles of governance and functioning. The Secretary-General recently observed that "the evolution of international law has led to more and more rights being vested directly in the individual. Yet, the Organization has not evolved at the same pace. The time has come to align the law applicable to the United Nations with developments in international human rights law" (A/65/318). The Inspector concurs with this view and appreciates that the General Assembly recently encouraged "the United Nations system to systematically address, as appropriate, aspects of the rule of law in relevant activities, recognizing the importance of the rule of law to virtually all areas of United Nations engagement".[99]

121. This principle is well defined in the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616) which adds: "It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency".[100] Interviews conducted confirm that staff members serving in the secretariats of international organizations are particularly sensitive to those aspects.

---

[96] The Noblemaire Report (1921) noted that the recruitment and career of international officials should be based on merit and not on national or political protection and staff should be selected reflecting a wide geographical distribution. It proposed permanent employment contracts to increase job security and to strengthen the capacity of officials to resist pressures exerted by their home Governments.

[97] The Flemming Committee, in its report to the Secretary-General (31 Oct. 1949) recommended the use of GS, P and higher categories posts to replace the 19-grade scale carried over from the LoN.

[98] See Djokitch Alexandre, *The Staff Union of International Labour Office — Its origins and the commencement of its activity*, Geneva: ILO, 1973.

[99] See General Assembly resolution 65/32, "The rule of law at the national and international levels".

[100] Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies (S/2004/616).

C. Freedom of association and staff representation

122. The principal legislative body of the United Nations, the General Assembly, began integrating SMR principles as early as its first session (February 1946) when the Provisional Staff Regulations with resolution 13(I)[101] were adopted. At its second session, on 17 Nov. 1947, the Assembly adopted resolution 128 (II) on Trade Union Rights (Freedom of Association) which welcomed "Decisions concerning the freedom of association adopted unanimously by ILC V" (11 July 1947). Recognizing the principles proclaimed by the ILC,[102], the Assembly considered the inalienable right of trade union freedom of association (…) as "essential to the improvement of the standard of living of workers and to their economic well-being" and requested the ILO "to continue its efforts in order that one or several international conventions may be adopted". The General Assembly endorsed the principles proclaimed by the ILC in respect of trade union rights… as well as those mentioned in the constitution of the ILO and the Declaration of Philadelphia (1944).[103]

123. The issue of staff representation, including staff rights and their access to various organizational mechanisms, has been dealt with, either directly or indirectly, through nearly 40 resolutions adopted by the General Assembly over the course of its first 65 sessions. The fundamental texts defining the role of SRBs in the United Nations and establishing Joint staff-management Bodies, were adopted by the sixth General Assembly session through Staff Regulations 8.1 and 8.2. The Standards of Conduct for the international civil service[104] clearly state that "freedom of association is a fundamental human right and international civil servants have the right to form and join associations, unions or other groupings to promote and defend their interests" (para. 26).

D. Human rights

124. The Universal Declaration of Human Rights, affirmed by the General Assembly in its resolution 217 (III) (10 December 1948), fully protects international civil servants, both as individuals (arts. 1, 2 and 20) and workers (arts. 23-24) to whom the right to organize is recognized by article 23.4. The Inspector was struck by the fact that most MRs in responding to the JIU questionnaire, noted that the UDHR and various relevant ILO Conventions and Declarations were applied de facto to staff members — but not explicitly recognized.

E. ILO Conventions and Declarations: collective bargaining

125. In an expanding global organization that has become increasingly diversified and fragmented with more complex lines of authority and differentiated conditions of service, SMR has understandably become more challenging. In such a context, the

[101] Staff Regulation 15: "The SG shall provide a machinery through which members of the staff may participate in the discussion of questions relating to appointment and promotion".

[102] This includes the "effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency and the collaboration of workers and employers in the preparation and application of social and economic measures".

[103] See General Assembly resolution 128 (II), first paragraph of the annex.

[104] The Standards of Conduct for the international civil service were initially prepared in 1954 by the International Civil Service Advisory Board and subsequently revised by the ICSC in 2001 and welcomed by the General Assembly in its resolution 56/244.

timing is certainly appropriate to outline some basic rules with system-wide applicability that would government the relations between staff and management and are themselves derived from existing international instruments and principles that many MS have already adopted and ratified. Indeed, international organizations in general and the United Nations in particular, serve as the ideal platform for embodying the concrete application of the universal values of these international instruments and principles. It may also be noted that the end of the permanent contracts will progressively give to most of the United Nations staff a status similar to the status of ordinary workers and therefore entitles them to benefit from the same rights as workers.

126. From the basic recognition of staff members as human beings via resolution 128 (II)) (and thus subject to the UDHR) and repeated acknowledgement of them as the Organization's "most precious asset", the General Assembly should ensure that the 10 principles outlined and promoted in the United Nations "Global Compact"[105] toward the private sector are fully applied to United Nations staff, most notably Principle 3 which calls for upholding the freedom of association and the effective recognition of the right to collective bargaining. As per the relevant ILO instruments, the right to collecti e bargaining is deemed to be the activity or process leading to the conclusion of a collective agreement which corresponds to:

> *All agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more representative workers' organisations, or, in the absence of such organisations, the representatives of the workers duly elected and authorised by them in accordance with national laws and regulations, on the other.*[106]

127. Several ILO instruments[107] embody the right to collective bargaining, starting with the Declaration of Philadelphia (1944) which is integrated in the ILO Constitution and is considered as one of the solemn obligations of ILO and its Member States. The ILO Conventions on Collective Bargaining (No. 154, 1981) define it as extending to:

> *All negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for: (a) determining working conditions and terms of employment; and/or (b) regulating relations between employers and workers; and/or (c) regulating relations between employers or their organizations and a workers' organisation or workers' organizations" (Article 2).*

128. Chapter III of the present report has conclusively shown that:

- The negotiation processes in the SMCC, the future SMC and the JNCs have the character of "bargaining" and are furthermore "collective" as the interests of all staff of an organization/entity or a category of that staff are at stake;

[105] See JIU/REP/2010/9: "United Nations corporate partnerships: the role and functioning of the Global Compact". The initiative was launched in 1999 and is referred to in res. 55/215, 56/76, 58/129, 60/215, 64/223.

[106] ILO Collective Agreements Recommendation No. 91, para. 2.

[107] ILO adopted another conventions and recommendations relating to collective bargaining and in particular, the Freedom of Association and Protection of the Right to Organise Convention (1948 — No. 87), the Right to Organise and Collective Bargaining Convention (1949 — No. 98), the Labour Relations (Public Service) Convention (1978 — No. 151), the Collective Bargaining Convention (1981 — No. 154), and the Collective Bargaining Recommendation (1981 — No. 163).

- The SRBs involved ensure by definition the representation of collective interests, are legitimately considered as "workers organizations" and the issues discussed are part of the "working conditions and terms of employment";

- The resulting agreements are made in writing and are collective in nature (even if the term "collective agreements" is not used in most cases in the United Nations context) and when they fall under the scope of full authority of the Secretary-General, they are not only considered binding, but are also subject to follow-up and joint follow-up procedures.

129. **If the United Nations is qualified as the employer and is represented by a mandated management when discussing and formalizing agreements, it can be concluded that all features characterizing collective bargaining do presently exist in most formal SMR negotiating processes in the organization, in particular the SMC. But this neither means nor implies that all SM interaction and Joint Bodies processes are aimed at collective agreements and constitute collective bargaining** at least in some types of joint bodies (see section V.B). In particular, **this does not imply that there can be collective bargaining beyond the limits of the delegated authority given by the MS to the Executive Head and the management.**

130. Indeed, when the General Assembly undertakes deliberations on the basis of ICSC reports (and subsequent advice from the ACABQ), it unilaterally determines the most significant element of the terms of employment i.e. remunerations. For decisions in this sphere, there is no collective bargaining. The subsequent JIU report on SMR will analyse the means for the SRs and their organizations to serve as advisers of the adviser (ICSC) of the decision maker. The Inspector recommends the adoption of the following recommendation, directly derived from ILO instruments including the Declaration on Fundamental Principles and Rights at Work (1998).[108] The implementation of this recommendation is expected to enhance accountability within the United Nations.

Recommendation 5

The General Assembly should request the Secretary-General to present to it for its approval, an appropriate staff regulation confirming the recognition of the right of the United Nations staff to collective bargaining as outlined in the annex of its resolution 128 (II). The Secretary-General and the Executive Heads of the separately administered organs and programmes should apply to the staff of their respective entities the standards and principles emerging from the relevant ILO instruments, particularly the Declaration on Fundamental Principles and Rights at Work (1998).

131. The progress in the implementation of recommendation 5, if adopted, should be reported to the General Assembly by the Secretary-General at every forthcoming session on Human Resources.

[108] The provisions of the recommendation are additionally drawn from: articles 1, 2.1 and 4 of ILO Convention 98 on the Right to Organize and Collective Bargaining (1949) and articles 3 and 5 of ILO Convention 87 on Freedom of Association and Protection of the Right to Organize (1948).

VII. Accountability for all

A. Responsibility and accountability of all stakeholders

132. For the effective implementation of SMR in the United Nations, all stakeholders should be held accountable for their respective roles, and should interact regularly through established forums with clear and transparent terms of reference and procedural rules, thus paving the way for effective consultation, negotiation, definition and approval of agreements and subsequent enforcement and monitoring of their implementation. Without this pre-requisite being met, any effort to bring about meaningful reform to SMR in international organizations will remain an elusive goal.

133. In line with staff regulations 8.1 and 8.2, given that SMR should culminate in negotiations (following mutual information and consultation), the Inspector hereby proposes eight (common sense) rules for constructive negotiations, based not only on interviews with SRs and MRs, but also on existing literature in the fields of psychology, diplomacy and industrial relations, as well as existing practices and lessons learned in diverse realms ranging from the agreements among private companies to ILO scholars[109]:

Table 4
Rules for constructive negotiations

R1 Institutional Framework	*Application to SMR*
Existence of a defined Institutional framework (agreed to by both sides) with transparent procedural rules and their unequivocal interpretation.	The JACs, JNCs, SMCC and the future SMC (with their respective ToRs) are the mutually agreed established frameworks for HR issues at the local, Secretariat and United Nations Group levels.
R2 Representativeness and accountability	
Legitimacy of every representative on both sides, through initial joint accreditation verification; representativeness and accountability of all representatives to their respective constituencies.	Representativeness on the Management side through written delegated authority from the Secretary-General to his/her direct representatives and to the EHs of United Nations entities. On the staff side, legitimate representativeness of SRBs through a system of elections ensuring a democratic representation of the staff-at-large and possible consultation with them on agreements with major impact.

[109] Sriyan de Silva, ILO Collective Bargaining Negotiations Conditions for Successful Collective Bargaining (http://www.ilo.org/public/english/dialogue/actemp/downloads/publications/srscbarg.pdf).

R1 Institutional Framework	*Application to SMR*
R3 Mutual respect and good faith in communication	
Mutual respect and good faith are essential elements for constructive dialogue.	Communication among (on the same side) and between (both sides) SRs and MRs should follow democratic participatory processes, including the acceptance of different viewpoints targeted in good faith towards consensus-building.
R4 Knowledge-based participation and transparent information sharing	
Participants should necessarily have a verifiable level of knowledge/expertise in the area concerned; relevant information should be shared with time-lead among parties.	A minimum threshold of expertise should be established for both MRs and SRs (including via mandatory training) on the basics of the HR framework (Staff Rules and Regulations) and SMR, as well as a general knowledge on managing collective issues in the field of labour relations.
R5 A clearly mandated position	
Each party comes to the negotiation prepared on substance (mandate) and tactics (fall back positions).	After preliminary stages of mutual information and consultation, representatives on both sides should come to the JB prepared to fully represent the position established with their constituents.
R6 Effective participation in SMR procedures	
Within the agreed framework and with respect to the established rules of the game, active participation by all representatives.	To disassociate from consultative and negotiating processes (SM(C)C, JNCs) is not constructive and makes the process of attaining negotiated outcomes more challenging. An "empty chair" policy does not lead to anywhere.
R7 Cohesion and coherence	
Once all representatives' positions have been expressed and taken into account within each party, they should adopt a united front when facing external counterparts.	Fragmentation in any "side" should be avoided by discretely resolving internal issues within each side (if possible, before the negotiations) through constructive discussions.
R8 Verification and enforcement of agreements — Monitoring and evaluation	
A joint monitoring framework is formally established, managed and operated to ensure the effective implementation of agreements, identifying each party's respective responsibilities and adopting tools for effective measurement (within established time frames).	Many processes have been tried and may be combined to follow the implementation of SMCC agreements; (see section III B.2). Compact agreements for managers can serve this purpose by adding an objective on SMR for all senior managers. The SMC and SRBs should define a system to monitor steps taken in every duty station towards implementing agreements that have been reached and signed.

134. The aforementioned rules are built on the concept of responsible behaviour and accountability which is defined as the "responsibility to someone for one's action" in the first of 16 agreed principles enunciated by SMCC XXIV (2000). Earlier SMCC sessions further agreed that "accountability mechanisms should be based on the principle of good governance encompassing respect for law, rules and regulations; transparency; effective and clear communication; team work; enhancing staff morale; respect for multiculturalism; loyalty to the Organization; and empowering training and mentoring of staff." The JIU reports on accountability and oversight (JIU/REP/1993/5 and JIU/REP/2011/5) are also instructive in this regard.[110]

135. An official definition of accountability came about only recently through General Assembly Resolution 65/259, which terms it as "the obligation of the Secretariat and its staff members to be answerable for all decisions made and actions taken by them, and to be responsible for honouring their commitments, without qualification or exception". This definition applies to both the management (including the EH) and the staff since the managers are also part of the staff, and are subject to the same Regulations and Rules. Some monitoring, reporting and possibly jurisdictional mechanisms remain to be conceived, established and put into practice to ensure that each stakeholder is held accountable for its actions. Table 5 outlines the roles of the three key stakeholders in SMR.

B. Responsibility and accountability of staff representatives

136. The credibility of SRBs as SMR partners is measured both in terms of their accountability to the staff-at-large and to other SRs (internal framework) and their adherence to the rules and regulations of the organization (external framework). In line with the organization's Charter and Staff Regulation 8.1 (see annex I) on SRB organization and elections, recognition and acceptance of an SRB by the Administration infers that its democratic functioning is ensured inter alia by the respect of staff rules 8.1(c) on eligibility and 8.1(d) on polling officers. In addition, most SRB statutes make provisions for staff-at-large to propose/adopt statutory amendments (via referendum) and initiate recall votes/motions of no confidence to dismiss the elected Council, provided that minimum participation requirements are met. For their part, SRBs can proactively conduct surveys of the staff-at-large to gauge their assessment on issues of concern.

[110] The General Assembly took note of the former with appreciation in its resolution 48/218.

Table 5
Responsibilities of SMR stakeholders

Responsibility per category		
Member States (MS) Representatives	*Executive Heads & Management Representatives (MRs)*	*Staff Representatives (SRs)*
– Active interest in the main features of SMR and its institutional framework within the United Nations Group. Seeking direct information on and ensuring that they are apprised of the positions and perspectives of staff and management representatives on HR issues at stake before engaging in discussions among themselves. – Regular dialogue established with SRs. – Respect for the authority of the Secretary-General as the first administrative officer and refraining from micromanagement. – Consistency between the endorsements of SMR related policies and their budgetary implementation.	– Effective management of the organization, in full accordance with existing texts in effect (rule of law). – Effective communication with both SRs and MRs, including line-managers, aimed at enabling constructive SMR. – Ensuring timely and transparent dialogue with SRs on HR initiatives and effective implementation of agreed HR policies. – Coherent alignment between HR managers and line-managers, at all locations. – Open door policy for SRB leadership	– Personal work to acquire knowledge on HR issues. – Willingness to build agreements with management through strengthened and constructive dialogue. – Effective representative function based on consultation with staff-at-large and interaction with administration. – Democratic practices based on mutual respect within the SRBs and among them.
Shared responsibilities		
Building trust and establishing clear boundaries with regards to the delegation of authority from MS to the Secretary-General (and from the Secretary-General to the Executive Heads of self- administered United Nations entities).		Effective implementation of HR policies and defence of staff rights and obligations, fully respecting the United Nations Charter, internationally recognized human rights and labour principles as well as internal rules and regulations; respect for and implementation of the rules of the game by both sides will encourage staff-at-large to participate in democratic processes and debates on issues that affect them.

137. In order to increase the accountability of elected SRs, some SRB statutes (UNSU, UNOG-SCC, ECA-SU) provide for an internal arbitration process, in line with the principle that internal issue should be dealt with through internal mechanisms[111] like Arbitration Commissions whose rulings are binding upon all SRBs and SRs and can include provisions for sanctions.[112] In practice, the effectiveness (ability to resolve internal disputes) and independence of these bodies necessitate strengthening them in order to face up to pressures from a Council, Bureau or even the concerned management.

Guideline 4: Enhancing the effectiveness of arbitration committees

In Staff Representative Bodies (SRBs) where an arbitration committee exists, candidates to such a body should be able to demonstrate adequate skills on legal and SMR-related issues, be chosen through a transparent selection process, should have no direct/indirect role in SRB activities that could represent a conflict of interest and should be fully independent in performing their functions.

138. With regards to furthering accountability and democracy in the electoral processes of SRBs, most SRB statutes provide for polling officers who independently organize and conduct elections and publish their results (often through a report). Polling officers should be statutorily ineligible for election as SRs or for serving on any SRB entity (that could represent a conflict of interest) and be operationally independent from other SRB entities and organs.

Guideline 5: All SRBs should consider incorporating mechanisms for voter verification and recounts by independent polling officers when organizing elections.

139. To further the accountability and effectiveness of SRs, newly elected SRs should receive training on basic SMR issues as they should be knowledgeable about the HR framework (staff rules and regulations, relevant AIs, etc.) in order to abide by them and assist the staff-at-large in interpreting and understanding their rights and duties under the existing legal framework and possible changes.

140. Financial records of SRBs (maintained by an elected Treasurer) should be audited either by an independent auditor (good practice to avoid conflict of interest and ensure full transparency) or an internal Audit Committee (provided for in 13 SRB statutes out of 19) who/which certifies annually the SRB accounts presented by the Treasurer to the staff-at-large. For its part, United Nations administration should to every extent possible, refrain from involvement in the internal operations of and disputes within SRBs. **In order to enhance the accountability of staff representation, SRs, as staff members, must abide by the existing financial and staff regulations of the organization/entity. When acting of behalf of SRBs, SRs are additionally subject to its internal oversight.**

[111] UN *Juridical Yearbook*, 2009, Chapter VI, Legal Opinions of the UN Secretariat, *Note to USG for Internal Oversight Services regarding oversight authority over UNSU*, p. 394.

[112] Sanctions include: verbal warning, written warning, suspension of voting rights in Executive Board and/or Council or a recommendation for recall. While the Arbitration Commission of Geneva can hear any "failure to observe these Regulations", its New York counterpart can only hear complaints relating to decisions of the SRB's organs or its SRs. However, their statutes provide no specific protection with regards to the rights of SRs and SRBs. Neither ILOAT nor UNAT consider themselves competent on internal disputes; See ILOAT judgments 1147 and 1897 and UNAT judgment No 1145 (2003).

C. Responsibility and accountability of managers

141. **Managerial responsibility and the scope of authority of managers concerned with HR matters should be well-defined for each of them. Effective and continuing training of managers is essential to the development of a culture of accountability**. These two important principles were agreed upon at SMCC XXIV. Nonetheless, during interviews with the JIU, SRs noted that internal controls and oversight mechanisms, including means to report to all stakeholders for decisions undertaken, remain limited. SRs currently play no role in monitoring management performance, even though current management trends demonstrate interest in such practices through yet to be established as 360-degree reviews. Management oversight is conducted top-down by management itself (without sharing such information externally) and MRs generally consider yearly OIOS and BOA audits as sufficiently robust oversight. However, as per resolution 64/259, the organization considers itself to be accountable not only to the oversight bodies, but also to the MS and staff.

142. The compacts established in 2009 — agreements between senior managers and the Secretary-General encompassing, among others, an HR Action Plan — represent an important accountability tool. One of the plan's indicators is aimed at measuring the effective implementation of SM consultation via the number of meetings held between administration and SRs during the performance cycle. It is essential that any new monitoring system contain meaningful indicators (outlined below as proposals) to monitor the implementation of measures to improve SMR through an interactive process of consultation with SRs on matters relevant to the staff.

Table 6
Indicators for managerial performance in SMR at all levels

Proposed indicator for SMR performance	*Purpose*
1. Number of issues within the scope defined by Regulation 8.1 consulted on/negotiated with SRs.	This indicator measures whether all relevant issues for the staff have been consulted/negotiated on in compliance with the existing regulations and rules in this regard.
2. For new measures affecting staff, the number of substantive documents issued at least four weeks in advance of local JB sessions and six weeks before SMC sessions, with clear indication of the time period given for expected first comments from staff.	To allow SRs to organize consultations with staff-at-large in their respective locations to benefit from truly representative feedback from their members as a necessary element of good SMR (its assessment would be a key element in measuring improvements in this area).
3. Number of information meetings and particularly joint information meetings to inform staff-at-large on the impact of agreed measures before they are promulgated/in effect.	This indicator would provide a measurable figure on joint staff-management initiatives, and could be set at a minimum number per year.

143. The implementation of the following recommendation is expected to enhance coordination and cooperation between SRs and MRs.

Recommendation 6

The Secretary-General and the Executive Heads of the separately administered organs and programmes should ensure to the Staff Representative Bodies of their respective entities an easy and frequent access to all appropriate levels of management, including at the highest level, through both formal and informal channels.

D. SMR and the delegation of authority (DA)

144. A clearly defined accountability framework, associated with a related oversight framework is essential for effective SMR and will contribute to the alleviation of mistrust and frustrations. During interviews, both SRs and MRs underlined the necessity of having a well-defined and established accountability framework, with some SRs lamenting that MRs, despite receiving managerial training, were ultimately not held accountable for implementing the decisions they themselves had agreed to in the realm of SMR.

145. Operationalizing the new entities established over time within the United Nations Group was achieved through varying appointment procedures with regards to senior management,[113] as well as varying rules and administrative issuances for the staff. These developments, occurring over several decades through numerous resolutions and in the context of varying interests of different parties, added complexity to diversity, resulting in **a fragmented and complex corpus of normative texts that are unclear on the issue of delegated authority**. Both the ACABQ (A/64/683) and the General Assembly in its resolution 64/259 have expressed concerns in this respect.

146. During SMCC XXIV, the management side expressed its frustration noting that "there was still a multiple-level system of authority and decision-making, which tended to blur individual responsibility". What had been lacking was an element, which, essentially for managers, clearly spelt out the authority and responsibility given to their Executive Heads to achieve the stated objectives in order to hold managers and staff accountable for the discharge of their responsibilities. In this respect, it is to be noted that in SMR, a good deal can also be "lost in translation" with regard to what is verbally agreed upon between SRs and MRs in joint bodies and what comes out in writing.

147. Solving all issues at the appropriate local level with sufficiently delegated authority is the essence of the "principle of subsidiarity". Its implementation avoids bottlenecks and resource wastages higher up in the organizational hierarchy to whom managers regularly refer to when uncertainties exist with regards to their level of DA. Such practices generate inefficiency and delays in solving issues that could have been addressed at the local level, had a clearer definition of DA been applied. MRs at the local level need DA through a margin for manoeuvre to directly address issues limited to the scope of their duty station in consultation with SRs through local JBs, while issues of Secretariat-wide relevance could be dealt with by the SMC.

[113] See JIU/REP/2009/8 "Selection and conditions of service of the executive heads in the UN system Organizations"; JIU/REP/2011/2 "Transparency in the Selection and Appointment of Senior Managers in the UN Secretariat".

E. Responsibility and accountability of Member States in SMR

E.1 Communication

148. While the staff has a clear right to be heard by the ACABQ (following its inception in 1946 via resolution 14(I), para. 2) when the latter deals with the budgetary aspects of personnel matters, MS mostly hear about staff through management. Formal direct and limited access for staff to Member States was provided for in 1979 by the General Assembly in its resolution 34/220, through which the Assembly "expressed its readiness to consider fully the views of staff" as presented through (a) a single recognized United Nations Secretariat SR via a document submitted under the agenda item "Personnel Questions" (now HR Management) and (b) at the United Nations system level, by a designated FICSA representative under the agenda item "Report of the ICSC".[114] Presenting the staff views on "personnel questions" was traditionally a role entrusted only to the Chairperson of the New York-based UNSU. Following UNSU's decision (2003-10) to suspend its participation in SMCC, both the UNSU Chairman and the SMCC Vice-President were allowed to present their views to the Fifth Committee, albeit on an ad-hoc basis through written requests. **In the Inspector's opinion, the time is right to establish simple provisions with regards to these matters.**

E.2 Member States' perspectives on and interest in SMR

149. The Inspector observed striking differences both in the level of understanding of and interest in SMR within a sample of 16 Member States during his mission to New York, including (but not limited to) Chairs of regional groups (November 2010) as well as some countries who on their own initiative participated in a much appreciated GRULAC meeting with the Inspector on the topic of SMR. While some MS appeared to have little interest in SMR beyond concerns raised by their nationals serving in the United Nations (or had their interest limited precisely by the fact that very few compatriots were serving in the organization), others, like representatives from G-77 countries, noted that it was important for them to have a unified position on SMR (which they currently lacked), as they collectively had a significant number or staff members working for the Secretariat who needed to be defended. The MS generally viewed the "existing mistrust between staff and management" as harmful and a few of them further noted discrepancies in the Secretariat's position in the sixty-fifth General Assembly (HR) session. Subsequently, the challenge facing SMR was twofold: while the staff appeared to be disorganized, management did not seem to listen to staff concerns on certain issues or were unable to represent them in a convincing manner before the MS.

150. MS highlighted the need for greater transparency in decision-making processes from either side, noting that they were willing to consider divergent views, as long as they were transparently presented. In the absence of such transparency, doubts would exist, not only on whether the expression of staff concerns was being curtailed by management, but also on whether SRs were accurately reflecting the concerns of all their constituents. Prior to presenting any proposal to the MS, management needed to not only discuss it with SRBs, but also conduct a thorough analysis of the proposals' merits. The challenges facing SRBs, as per the perspectives of MS, included fragmentation and inadequacies in internal governance resulting in stalemates and the expression of unrealistic proposals. Management, for their part, needed to serve as a better intermediary between MS and staff. Also, the MS called upon the United Nations

[114] The latter will be considered in the JIU report on SMR in the specialized agencies and the common system.

entities to provide awards/recommendations for better management practices as an incentive measure.

E.3 Member States' positions on measures to improve SMR

151. Representatives of most MS were of the view that the organizations of the United Nations system needed to respect the provisions of conventions pertaining to human and labour rights and norms, particularly with regards to their application to United Nations staff, with some noting that the staff themselves could negotiate to have such language incorporated into their contracts. They noted the importance of measures to protect the independence of international civil servants, and were generally open to reforms in the SMCC, transforming it from an event into a process. With regards to more direct dialogue with SRBs, Member States noted that the current provisions of Assembly resolution 34/220 limited their ability to engage in direct contacts with different SRBs. They cautioned that with far too many voices on the staff side, more direct and fragmented dialogue could lead to the expression of fringe sentiments rather than representative ones. To improve their communication with MS, SRBs need to organize the relations among themselves much more rigorously in the future. In particular, they could regroup the SRBs by federating them into one United Nations staff structure. Such a structure would be able to legitimately speak and be heard on behalf of all staff.

152. To the MS, SMR was an issue that the management side is supposed to deal with. The MS should not have to micro-manage the process and it is each organization's responsibility to empower line managers and make them accountable for consulting with staff, particularly when deliberating on issues that directly impacted upon them. At the very least, they should ensure that such issues have really been discussed between staff and management and as appropriate inquire about the respective positions before accepting to deliberate on the matter. Overall, Member States felt under-informed on SMR issues in general and the SMCC in particular (see Chapter III, section D.3).

VIII. Towards a new Staff-Management Committee

A. A new SM(C)C?

153. **While the Inspector considers this chapter as containing major elements of his proposals, he refrained from using the customary form of crisp "recommendations" for it, as the decisions concerning the terms of reference of the Committee belong exclusively to its members on both sides and depends on a negotiated agreement on a complex set of provisions.** The Inspector appreciates the provision contained in para. 22 of the report of SMCC XXXII, noting that the issuance of the draft SGB on SMC and the revision of ST/AI/293 may subsequently need to be further updated depending on the recommendations of the present JIU report.

154. The changes proposed to the institutional aspects of the Committee result from a critical appraisal of more than 30 years of its experience, as described in chapter III, and in particular from the Committee's assessment of its own functioning, in light of the best provisions drawn from its previous and present ToRs.[115] These proposed changes infer a greater level of accountability from the part of all concerned actors. They place the "negotiation" phase only where it should be, i.e. in the negotiation bodies and after the phase of mutual information on new policy concepts and mutual consultation on those

[115] ST/SGB/2002/15 and ST/SGB/2011/6.

initiatives. The joint provision of information on agreements reached or not reached to both MS and staff-at-large should follow.

B. Making the Committee secretariat more effective and independent

155. The SMC's ToR outlines its President's role as that of a neutral moderator and of the Vice-President as his/her assistant and replacement in case of absence. However, their roles in-between sessions are not defined and there is no mention of compensation or term limits. Additionally, in the absence of a representative structure for United Nations Staff, the Vice President — by definition a staff member — has to speak on their behalf, without any formal assistance or mandate to do so and correctly fulfils this obligation. The Inspector finds merit in the former SMCC President's wish of having two separate Vice-Presidents elected respectively from the staff and the management. Each of them could present the positions of his/her side and conduct negotiations on their behalf as outlined in the new ToR on the SMC.

156. A Bureau composed of a neutral President and two Vice-Presidents could also strengthen the presidency by furthering his/her independence. The Vice-President elected by the SRBs could facilitate coordination among them while the Vice-President from the management side would ensure the full expression and coordination of the managers from the various duty stations and the Departments in charge of the field. This would alleviate some of the coordination responsibilities currently entrusted to USG-DM and ASG-HR who could then focus on appraising the Secretary-General on agreements to be worked on or arrived at.

157. The Bureau itself could play a leading role in monitoring the implementation of agreements reached by the Committee. The concerned managers, and, as appropriate, the Chairs of SRBs should be held accountable for their implementation. Once again, following SMCC XXXII, the Committee's "Secretariat"[116] initiated the monitoring of the implementation of agreements, with the upcoming plenary session of the Committee due to report on its outcome.

158. To remove any perceived doubts as to the neutrality of the President, he/she should be guaranteed full operational independence from OHRM. In this regard, the Secretariat of the Committee should be placed under the sole authority of the President. It should have its own budget line within the OHRM budget, including significant funds dedicated to train SRs and MRs on SMR-related skills and knowledge.[117] A full-time Committee Secretary (P staff) and a full-time assistant (GS staff) should be seconded from OHRM to the Committee Secretariat, working year-round undertaking the necessary research, providing logistical support on SMR related issues and activities and assisting in the dissemination of information in-between sessions.

C. Clarification on to whom each text will be applicable and who should discuss it

159. In line with Chapter VII.D., greater clarity of the status and scope of negotiated texts is necessary prior to the commencement of any negotiations and should be based on:

[116] A newly appeared structure succeeding a Secretary under the authority of OHRM.

[117] Such funding for training is currently provided for in the DFS programme budget section and could be partially transferred to OHRM section for this purpose.

(a) The assurance that provisions to be discussed fall either under the sole responsibility of the Secretary-General and are subsequently discussed exclusively within the Committee; or fall within the realm of the General Assembly, entailing the need for a common position or recommendation made to this body through the parallel channels of the relevant official(s) delegated by the Secretary General the Staff Federations for the SRBs;

(b) Joint identification and delineation of the United Nations entities to whom the provisions and texts under discussion would be fully applicable without further negotiation following a Committee agreement; or should be subject to further discussions between each EH and each SRB within the separately administered organs and programmes;

(c) An analytical study by the SMC legal officer on the delegation of authority to associate entities by the Secretary-General. Responsibilities of associate members would thus depend on such examinations, and their representation (on both sides) should conform to the principle that **only (all) those who would be held accountable for an agreement should participate in the decision-making process.**

D. Giving time and space to analysis and consultations

160. As noted in chapter III, limitations, frustrations and suspicions surrounding most past SMCC sessions arising from the late reception of its agenda as well as the availability of limited documentation for advanced preparation and effective preliminary consultations within each side, are yet to be addressed. Such delays played a major role in the failure of the January 2010 special session on contractual arrangements. The situation deteriorated before SMCC XXXII (2011) as **its provisional agenda was not determined during the previous session as is typically the case.** SRs in Geneva received the agenda and related documentation less than two weeks prior to coming to the preparatory meetings — insufficient time for undertaking necessary consultations with the staff-at-large or for drafting a unified counter-proposal on the staff side. Unfortunately this absence of provisional agenda was repeated in June 2011 for the forthcoming session of SMC, for which only the venue in Arusha) was decided. **The current situation requires a major change whereby more time is given to all interested managers and staff members to prepare themselves and develop a common understanding on the issues at stake through a series of meetings and exchanges of comments.**

161. The 2012 SMC session due to be held prior to the sixty-seventh General Assembly session dedicated to Human Resources Management, will provide the opportunity to discuss and decide upon further major improvements in its working processes, including, as per the suggestions made in the present report, giving more time to SMC participants. To this end, the session could also discuss the possible transformation of future sessions from a **five-day event entailing some working groups into an annual five-month process** to be completed by June[118] which will give to each stakeholder greater guarantees of transparency, democracy and efficiency as elaborated below. The implementation of the revised process implies that all SRs involved be granted the necessary time-release to allow for their meaningful participation:

(a) New topics and texts for inclusion into the SMC's agenda (prepared on the basis of the provisional agenda discussed by the preceding session) should be received

[118] All proposed times are for illustrative purposes only and can be modified by the Committee.

by the SMC Secretariat by the **end of January** for immediate dissemination to all members;[119]

(b) A virtual "organizational" session (via video/teleconference) of the 18 SMC members chaired by the President should be held by **mid-February** to: elect and appoint a Vice-President (from each side); to adopt the session agenda; determine with the assistance of the legal adviser whether an issue falls within the realm of authority of the Secretary-General; assess the interest of the associate members; allocate a limited number of major issues to as many WGs; and nominate three representatives per side and per WG as chosen by each party;

(c) A process of internal consultation within each side until the **end of March** to give them enough time and flexibility to prepare their respective positions. For the SRBs, this would include discussions with staff-at-large on initiatives and texts as disseminated, collecting and recording their reactions and developing a common negotiating position shared among all SRs (and possibly MRs if appropriate); for HR managers, this would include working towards a common position based on the inputs of individual managers. This six week period would also allow all representatives (members and associate members) to: familiarize themselves with rules and provisions presently in effect for the issue under consideration, and to compare the possible consequences (both positive and negative) of the changes envisaged to them; to raise questions on the justifications behind proposed changes; to gather information on similar best practice initiatives in other contexts (if available); and to share the viewpoints of each side with the SMC President and Secretary through a position paper disseminated to all SRs and MRs;

(d) The first series of Working Group meetings (lasting 2-3 days each) to discuss and negotiate on the designated issue prior to **mid-April**; upon completion, jointly drafted issue reports would be immediately disseminated by the Secretariat to all Committee members and when appropriate, associate members, with a clear identification of points of agreement and disagreement.

(e) A five day general meeting of all SMC members and when appropriate, associate members, at the **beginning of May** to deliberate on all issues on the agenda, particularly the WG reports. Taking the previous steps into account, further preparatory consultations among members of the same side would appear unnecessary at this stage or should be reduced to a minimum; a detailed report on each agenda item, once closed, would be drafted by the co-rapporteurs with a clear delineation on points of agreement and disagreement as well as outlining the schedule, venue and provisional agenda of the next annual session at the earliest. The agreed texts would be immediately conveyed by the USG for DM or the ASG for HR to the Secretary-General for signature.

(f) On issues where disagreements persist, the Bureau, Secretary and the WGs concerned would meet for one last time **at the end of May** to try to attain an agreed outcome. If successful, a complementary WG report would be prepared and conveyed immediately by the USG for Management or the ASG for Human Resources to the Secretary-General (who would have followed the negotiations in real time) for signature. The Secretary-General would then be fully committed and accountable for defending the agreements reached before the Member States, promulgating them through administrative issuances and monitoring their effective implementation.

[119] Pertinent topics/texts can include: new/proposed initiatives, follow-up on previous decisions, consequences of GA resolutions impacting upon staff welfare, implications of changes in staff rules and AIs on the basis of ongoing discussions in the ICSC, HLCM and HR network.

IX. Conclusions

162. The research by the Joint Inspection Unit project team revealed that while the principles of staff-management relations in the United Nations are solidly established by various legally binding texts, including numerous General Assembly resolutions, the implementation of these principles is far from satisfactory at most levels, precipitating in a crisis in SMR in 2010-11. In order to attain effective agreements in SMR, the necessity for the Secretary-General and senior management representatives "to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies" may represent a difficult deviation from business as usual procedures for stakeholders whose mindsets are strictly tried to that of a hierarchic organizational culture. Safeguarding SMR would involve nothing less than a change in management culture. The report has highlighted some major points in this respect:

(a) The scope of issues of which the Secretary-General/senior management should engage with SRs is clearly defined and limited by Staff Regulations 8.1(a) and 8.2 (see annex I). Compared to the total number of issues on which the United Nations is currently engaged, interaction with the staff is only formally necessary in a small fraction of them. Subsequently, providing for such participation would clearly not amount to the "co-management" of the organization, as sometimes feared;

(b) While the Secretary-General is bound by the rules and regulations of the organization to engage the staff on issues that affect them, such engagement should not in any way be viewed as the partial usurpation of the Secretary-General's authority by the staff side. It should be remembered that **the Secretary-General, as the Chief administrative officer of the United Nations, has the final say to accept or reject any proposed agreement on issues where he/she is designated as the ultimate authority**. Subsequently, as per the Inspector's proposal for a reformed Committee, if the Secretary-General or his/her delegated representative follows negotiations as they occur, then he/she will have the necessary time (and he/she certainly has the authority) to fully consider any proposed agreement in all its aspects before agreeing and signing on to it;

(c) If the aforementioned principles and procedures are applied, the inclusion of the staff representatives in certain decision-making processes should be of great value added to the effective functioning of the organization and contribute to a more positive work environment;

(d) Credible and thoughtful agreements that take into account all possible angles of an issue cannot and should not be deliberated and determined overnight and may require different time frames, from days to months. In order to ensure that there are no unnecessary shocks or surprises for either side, **the three steps necessary to attaining agreements in good-faith — namely, timely mutual information, mutual consultation and negotiation — must be respected** (and complemented by the provision of relevant information jointly by SRs and MRs to all concerned parties). In this regard, it is important to recall the conclusion reached in chapter VI that all features characterizing collective bargaining do already exist in most formal SMR negotiating processes in the United Nations, in particular the SMC and the JNCs. The applicability of the concepts of negotiation and the right to collective bargaining should be officially acknowledged by the General Assembly through the approval of a staff regulation to be drafted by the Secretary-General as recommended in chapter VI above, as applied selectively to certain JBs. Additionally, the Organization and its separately administered organs and programmes should explicitly acknowledge their adherence to the standards

and principles emerging from the ILO's relevant Conventions and Recommendations, particularly the Declaration on Fundamental Principles and Rights at Work;

(e) The appropriate framework for negotiations will vary according to the nature and scope of the issue under consideration, from the SMC for issues with Secretariat-wide significance, to Joint Bodies for duty-station specific issues to informal discussions between line managers and the staff of their unit for issues specific to a department or unit (in accordance with the principle of subsidiarity).

(f) **Agreements reached** in the aforementioned forums, with due representation of both staff and management, **should be accompanied by a necessary joint monitoring and implementation framework, clearly determining who on each side is to be held accountable for these tasks, with a clearly defined time-frame for action**. Given the means available to it, management is best placed to be held accountable for this task, beginning with the Secretary-General as first administrative officer of the United Nations and the EH of every United Nations entity.

163. At a time when the General Assembly has requested the Secretary-General to focus on the management of the Organization on the basis of accountability,[120] the aforementioned principles should apply fully to both SRBs (in particular their leaders toward their constituents from the staff-at-large) and Management (in particular at the senior level), in parallel with adherence to the highest standards of efficiency, competence, and integrity as mentioned in Article 101.3 of the United Nations Charter, applicable equally to both staff and management. The need for SMR training for representatives on either side is vital in this regard.

164. Staff participation in SRBs should be clearly encouraged and should not be viewed with either condescension, annoyance or suspicion by the management side at any level; this would help to dispel any lingering apprehension (either justified or otherwise) of possible management retaliation regarding staff representational functions, foster transparency and good-faith in their interaction and further the possibility for constructive dialog at any level (as evidenced from the past positive experiences in the SMCC). Active and accountable SRBs are one of best manifestations of democracy in practice at the grassroots level of the United Nations.

165. It is the Inspector's expectation that the findings of this report, including lessons learnt from the past and recommendations for the way forward, will also benefit the staff and management of the specialized agencies of the United Nations system who will be the subject of a forthcoming report on SMR in the common system, as adopted in the JIU's programme of work for 2011.[121]

[120] See General Assembly resolution 64/259, including for the agreed definition.

[121] See A/65/34 para 118.

Annex I

Regulations and rules on staff relations

ST/SGB/2011/1

Staff Regulations:
Article VIII: Staff relations

Regulation 8.1

(a) The Secretary-General shall establish and maintain continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies;

(b) Staff representative bodies shall be established and shall be entitled to initiate proposals to the Secretary-General for the purpose set forth in paragraph (a) above. They shall be organized in such a way as to afford equitable representation to all staff members, by means of elections that shall take place at least biennially under electoral regulations drawn up by the respective staff representative body and agreed to by the Secretary-General.

Regulation 8.2

The Secretary-General shall establish joint staff-management machinery at both local and Secretariat-wide levels to advise him or her regarding human resources policies and general questions of staff welfare as provided in regulation 8.1.

Staff Rules:
Chapter VIII: Staff relations

Rule 8.1: Staff representative bodies and staff representatives

Definitions

(a) he term "staff representative bodies", as used in the present chapter of the Staff Rules, shall be deemed to include staff associations, unions or other corresponding staff representative bodies established in accordance with staff regulation 8.1 (b).

(b) Staff representative bodies may be established for a duty station or for a group of duty stations. Staff members serving in duty stations where no staff representative body exists may seek representation through a staff representative body at another duty station.

(c) Each member of the staff may participate in elections to a staff representative body, and all staff serving at a duty station where a staff representative body exists shall be eligible for election to it, subject to any exceptions as may be provided in the statutes or electoral regulations drawn up by the staff representative body concerned and meeting the requirements of staff regulation 8.1 (b).

(d) Polling officers selected by the staff shall conduct the election of the members of each staff representative body, on the basis of the electoral regulations of the staff representative body concerned, in such a way as to ensure the complete secrecy and fairness of the vote. The polling officers shall also conduct other elections of staff members as required by the Staff Regulations and Staff Rules.

(e) No staff member shall threaten, retaliate against or attempt to retaliate against a staff representative exercising his or her functions under the present chapter.

(f) **The staff representative bodies shall be entitled to effective participation, through their duly elected executive committees, in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies, and shall be entitled to make proposals to the Secretary-General on behalf of the staff**.

(g) In accordance with the principle of freedom of association, staff members may form and join associations, unions or other groupings. However, formal contact and communication on the matters referred to in paragraph (f) above shall be conducted at each duty station through the executive committee of the staff representative body, which shall be the sole and exclusive representative body for such purpose.

(h) **General administrative instructions or directives on questions within the scope of paragraph (f) above shall be transmitted in advance**, unless emergency situations make it impracticable, to the executive committees of the staff representative bodies concerned for consideration and comment before being placed in effect.

Rule 8.2: Joint staff-management machinery

(a) The joint staff-management machinery provided for in staff regulation 8.2 shall consist of:

(i) Joint advisory committees or corresponding staff-management bodies, at designated duty stations, normally composed of not fewer than three and not more than seven staff representatives and an equal number of representatives of the Secretary-General;

(ii) A Secretariat-wide joint staff-management body composed of equal number of representatives of the staff and representatives of the Secretary-General.

(b) The President of the joint staff-management bodies referred to in paragraph (a) above shall be selected by the Secretary-General from a list proposed by the staff representatives.

(c) Instructions or directives embodying recommendations made by the bodies referred to in paragraph (a) above shall be regarded as having satisfied the requirements of staff rule 8.1 (f) and (h).

(d) The joint staff-management bodies referred to in paragraph (a) above shall establish their own rules and procedures.

(e) The Secretary-General shall designate secretaries of the joint staff management bodies referred to in paragraph (a) above and shall arrange for such services as may be necessary for their proper functioning.

Annex II

Table of the perceived quality of SMR through the SMCC reports

The following table of the quality of SMR during the SMCC sessions, only drawn from their respective reports and annexes, as perceived by the Inspector is based on the importance and the number of agreements (and disagreements) reached by each session, with more weight given to the substantive over the procedural agreements, and a view to the speeches and position papers of both parties' leaders.

			Perceived quality of staff — management relations at SMCC		
SMCC session number	*Date of session*	*Location*	*Apparently productive*	*Fair*	*Poor/ Challenging*
I	September 1980	Vienna	X		
II	June 1981	NYHQ		X	
III	September 1981	NYHQ			X
IV	April 1982	NYHQ		X	
V	September 1982	NYHQ	X		
VI	March 1983	Vienna	X		
VII	September 1983	NYHQ	X		
VIII	April 1984	Geneva			X
IX	September 1984	NYHQ		X	
X	June 1985	NYHQ			X
	1986			NO SMCC	
XI	June 1987	Geneva	X		
XII	March 1988	NYHQ			X
XIII	March 1989	NYHQ			X
XIV	March 1990	Geneva	X		
XV	June 1991	NYHQ	X		
XVI	June 1992	NYHQ		X	
XVII	September 1993	NYHQ	X		
XVIII	June 1994	NYHQ	X		
XIX	June 1995	Amman	X		
XX	September-October 1996	NYHQ	X		

Perceived quality of staff — management relations at SMCC					
SMCC session number	*Date of session*	*Location*	*Apparently productive*	*Fair*	*Poor/ Challenging*
XXI	June 1997	NYHQ	X		
XXII	May 1998	Bangkok	X		
XXIII	July 1999	NYHQ	X		
XXIV	April-May 2000	Vienna		X	
XXV	October 2001	NYHQ	X		
XXVI	September-October 2002	NYHQ			X
	2003-2005			NO SMCC	
XXVII	June 2006	NYHQ	X		
XXVIII	June-July 2007	Nicosia, Cyprus			X
XXIX	June 2008	NYHQ	X		
XXX	June 2009	Nairobi		X	
XXXI	June 2010	Beirut		X (during meeting)	
XXXII	June 2011	Belgrade			X

Annex III

Staff-management issues in SMCC sessions

Issues	*Session date and relevant paragraphs*[122]
Staff-management relations	June 2011 (17-22); June 2008 (17-22); July 2007 (14-19); October 2002 (48-58, 63-66); May 2000 (57-61); June 1997 (86-87); October 1996 (38-57, 98-99); June 1995 (53-70); June 1994 (72-77); September 1993 (16, 35-47); June 1992 (46-51); June 1991 (14-21); March 1990 (19-27); March 1989 (81-95; 108-109); March 1988 (84-90); June 1987 (14-23); June 1985 (9-19); September 1984 (12-16); April 1984 (11-15; 59-60); September 1983 (8-9); October 1982 (50); April 1982 (20-23); September 1981 (30-31); June 1981(28-30); September 1980 (8).
Facilities provided to SRs	May 1998 (105); June 1997 (23-26); October 1996 (12-13); June 1994 (26-28).
Rights and obligations of SRs and facilities to be provided	April 1982 (39-44); September 1981 (29); June 1981(31-32); September 1980 (9).
Participation of Staff in JBs	Oct 2001 (152-155); March 1988 (21); June 1987 (97-100); September 1980 (10).
Implementation of SMCC agreements	June 2011 (14-16); June 2010 (13-14, 57-58); June 2009 (15-17); June 2008 (15-16); July 2007 (5-7); June 2006 (6-25); October 1996 (12-13, 38-57, 98-99); July 1999 (47-62); March 1983 (13-23).

[122] See the correspondence between dates and roman numerals for SMCC sessions in Annex II.

Annex IV

Overview of action to be taken by participating organizations on the recommendations of the Joint Inspection Unit

		Intended impact	United Nations*	UNCTAD	UNODC	UNEP	UN-Habitat	UNHCR	UNRWA	UNDP	UNFPA	UNICEF	WFP	UN-Women	ILO	FAO	UNESCO	ICAO	WHO	UPU	ITU	WMO	IMO	WIPO	UNIDO	UNWTO	IAEA
Report	For action		☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
	For information		☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒
Recommendation 1		e	E																								
Recommendation 2		c	E	E	E	E	E	E	E	E	E	E															
Recommendation 3		e	E	E	E	E	E	E	E	E	E	E															
Recommendation 4		c	E	E	E	E	E	E	E	E	E	E															
Recommendation 5		a	L																								
Recommendation 6		c	E	E	E	E	E	E	E	E	E	E															

Legend: **L:** Recommendation for decision by legislative organ
E: Recommendation for action by executive head
Recommendation does not require action by this organization

Intended impact: **a:** enhanced accountability **b:** dissemination of best practices **c:** enhanced coordination and cooperation **d:** enhanced controls and compliance **e:** enhanced effectiveness **f:** significant financial savings **g:** enhanced efficiency **o:** other

* Covers all entities listed in ST/SGB/2002/11 other than UNCTAD, UNODC, UNEP, UN-Habitat, UNHCR, UNRWA.